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THE CLERGY RESERVES:

THEIR

HISTORY AND PRESENT POSITION,

SHOWING THE SYSTEMATIC ATTEMPTS THAT HAVE BEEN MADE TO ESTABLISH IN CONNECTION WITH THE STATE, A

DOMINANT CHURCH IN CANADA.

WITH

A FULL ACCOUNT OF THE RECTORIES.

Also an Appendix

CONTAINING DR. ROLPH'S SPEECH ON THE CLERGY RESERVES, DELIVERED IN 1836.

BY CHARLES LINDSAY.

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ERRATA.

Page.	*Column.*	*Line.*	
25	2	30	Omit "*the*" before "*apostate.*"
29	2	26	For "*bills*" read "*bill.*"
33	2	11	Omit "*and endow*" before "*rectories.*"
35	2	30	For "*Provincial*" read "*Imperial.*"
36	1	51	For "1844" read "1849."
36	2	10	For "*has*" read "*had.*"
36	2	25	For "*the*" read "*their*" before "*anxious*
37	1	16	Read "*was*" before "*wasted.*"
40	1	56	Read "*or to be sold*" before "*under.*

THE CLERGY RESERVES:

THEIR HISTORY AND PRESENT POSITION.

[*From the North American.*]

INTRODUCTION.

A quarter of a century of patriotic effort to raze the foundations of a hierarchy of which the Clergy Reserves furnished the materials has failed of full and complete success. The last decisive battle has yet to be fought. Before these lands yielded a product available for the support of any religious denomination, the voice of public opinion, expressed through its constitutional organ the representative branch of the Upper Canada Legislature, had already devoted them to secular objects of general utility. But the influence of the reigning Oligarchy was sufficient to set at defiance that public opinion which no intimidation, no political proscription, no bribery and no available species of corruption could bring to its support. The constitutional right of Parliament to devote the Clergy Reserves to secular purposes never admitted of a doubt. This right was expressly given by the constitutional charter which gave the Provincial Parliaments of Upper and Lower Canada an existence. It was this self-same legal instrument which at once authorized the making of the Reserves and vested in the two branches of the Legislatures which it created the power to annul them. This power the Representative branch of the Upper Canada Parliament frequently essayed to exercise; but its efforts were rendered nugatory by the constant opposition of the nominees of the crown in the Legislative Council. The unfair construction of this branch of the Legislature, from which every popular element was rigidly excluded, was in some sort a necessity of the irresponsible system under which the affairs of the Province were then administered; for it would never have been tolerated that the executive government should be in constant collision with both houses of Parliament. In that case, there would have existed no other means of sustaining the Provincial Oligarchy than a constant and hazardous exercise of the Imperial veto; a practice that would have induced a dangerous conflict between the Crown and the people. It was found more convenient to combat and thwart the constitutional expressions of the popular will through that branch of the Legislature of which the fancied resemblance to the Imperial House of Lords invested it with a marked characteristic of the British Constitution. The Legislative Council did not represent the Crown by whom its members were nominally appointed; nor had it any pretensions to represent a people with whose selected representatives it was at perpetual hostility. It was at once the creature and the prop of the Oligarchy by whom its members were nominated for the confirmation of the Crown. To the circumstance of the machinery of state so constructed being an elaborate fraud, was owing the non-secularization of the Clergy Reserves by the Parliament of Upper Canada a full quarter of a century ago. Parliament with the right, was cheated of the power, which, with tantalizing mockery, it was invited to exercise.

These peculiar obstructions to a successful course of Legislative action on the Clergy Reserves, in accordance with the demands of the people, have ceased to exist. The Legislative Council, whatever be its general merits, is now required to harmonize in sentiment and action with the elective Chamber, which possesses a sovereign control over the actions and indeed the very existence of the Provincial Ministry.

The last ten years' history of the question possesses a subordinate interest compared with that of the twenty years preceeding. Not that the question itself has diminished in importance; but of late years the action of the Provincial Parlia-

ment upon it—formerly so inharmonious and ineffective—has been less frequent. The last act of legislation respecting the reserves was performed, under what circumstances will afterwards appear, by the Imperial Legislature, to which an appeal has been made by the present Canadian Parliament to restore the question unfettered except by certain conditions indicated, to Provincial control. Whether another course might not have been taken by the representatives of the Canadian people, this is not the place to discuss. We have the explicit pledge of the Imperial Government that the action of the British Parliament which we have invoked shall be taken early in the next Session. It is of first importance therefore that the whole question, historically and in its present aspect, should be clearly understood by those who will soon be called upon to choose that Parliament with whom its ultimate decision will rest. The issue between the Reform party and its opponents will, in its results, affect not merely the course of administration for the next four years: the deepest interests of a future empire are involved in its decision. Such being the surpassing importance of the Clergy Reserve question, we have determined to place it fully and fairly before the country. This is the more necessary as there is no work in existence to which the student of Provincial history can have recourse for a connected account of this deeply important question. To that numerous accession to our population which immigration and the ordinary means of increase have given us within the last dozen years, the information is absolutely indispensible to enable them intelligently to exercise those franchises with which, as Canadian freemen, they are invested.

CHAPTER I.

How the Clergy Reserves came to be made.—The Provincial Parliament empowered to abolish them under certain Restrictions.—Quantity of Reserves; how and when made.—Simcoe desires an Established Church for political purposes.—Denominational Aspect of Upper Canada in 1792.

At the conquest of Canada by the Crown of England, the country was inhabited by a French population, numbering over 65,000 persons, who professed the Roman Catholic religion. Under the constitution and laws of the French colony, the Roman Catholic Clergy were possessed of property in mortmain to a large extent. A system of tythes was also in existence. After the conquest, the right to receive their accustomed dues, from persons of their own persuasion, was confirmed to the Romish Clergy. Tythes continue to be collected in Lower Canada by the Roman Catholic Priests, but from their own people only. Tythes are also collected in the Counties of Glengarry and Dundas, and parts of the Western District, inhabited by Roman Catholics, in Upper Canada. The first Constitutional Act, passed in the year 1774, providing for the Government of the Province of Quebec, as the country was then called, after recognizing the rights of the Romish Clergy, provides that His Majesty and his successors may make "provision out of the "rest of the accustomed dues and rights for the "encouragement of the Protestant religion, and "for the maintenance and support of a Protes-"tant Clergy." In the Session of 1791, George III., by Message to both Houses of Parliament, expressed a desire to make a permanent appropriation of lands for the support and maintenance of a Protestant Clergy. During the same Session, Mr. Pitt introduced into Parliament a measure to provide for the Government of Canada. This measure, known as the Constitutional Act of 1791, authorized His Majesty to reserve, out of future grants of land within the Provinces, as well as in respect of all past grants, a quantity equal in value to the seventh part of the lands so granted, "for the support and maintenance of a Portestant "Clergy." The Act also empowered the Imperial Government to authorize the Executive Government of each Province "to constitute and erect "within every township or parish one or more par-"sonage or rectory, or parsonages or rectories, "according to the establishment of the Church of "England," and to endow them with so much of the land thus reserved, in respect of lands granted in the township or parish where the rectories were created, as the Provincial Government might judge expedient under the existing circumstances of the township or parish. In like manner, the Provincial Governments might present incumbents to the rectories. The Rectors were to hold their livings with "all rights, profits, and emoluments "thereto belonging or granted, as fully and am-"ply, and in the same manner, and on the same "terms and conditions, and liable to the perfor-"mance of the same duties, as the incumbents of "parsonages or rectories in England." Authority was vested in the Provincial Parliaments to "vary or repeal" the provisions of the Constitutional Act relating to the means of support for a Protestant Clergy, "and also respecting the constituting, "erecting, and endowing parsonages and recto-"ries, and also respecting the presentation of "incumbents or ministers to the same, and also "respecting the manner in which such incum-"bents or ministers shall hold and enjoy the "same." Any Act affecting the allotment and appropriation of the Clergy Reserves or rectories, the presentation of incumbents thereto, the mode in which they shall enjoy their emoluments, or affecting the stipends or emoluments of any minister, priest or ecclesiastic, was required to be laid before both Houses of the Imperial Parliament thirty days, before the Crown could signify its

assent thereto; and if, within that time, either House addressed the Crown to withhold the Royal Assent the Act could not become law.

Thus originated the most fruitful source of dissention and animosity that has ever disturbed the repose of this Province. In Lower Canada, owing to the peculiar circumstances of that Province, the Clergy Reserves have not been a prolific source of contention. The ambiguity of the term "Protestant Clergy" admitted of a variety of interpretation. Circumstances conspired to invest with undue importance the legal construction of this term, and we witness the extraordinary spectacle of contending parties in the Province fiercely battling, for a period of over twenty years, over the construction of two words in an Act of Parliament, the entire provisions of which, connected with the subject of dispute, the Provincial Parliament might any day have swept away for ever! But the local Legislature had been so constituted that no accord, on this subject, between the two Houses was ever possible. The representative branch had to succumb to the oligarchical; and the people elected representatives only that their voices might be stifled by the nominees of the Crown, who sat in the Legislative Council. As a practical question, the construction of the term "Protestant Clergy" has lost its interest. Whether Pitt* or Grenville, for the latter was probably the framer of the Act, intended that one or all denominations of Protestants should possess the Reserves; the Imperial Government in 1840, went beyond the possible intention of the Constitutional Act, in abolishing the restriction of their proceeds to "Protestant Clergy" at all. This cut the gordian knot that had entwined itself around the ambiguous and variously interpreted term "Protestant Clergy;" but not until the question had been decided by the twelve judges.

When the Imperial Government, under authority of the Constitutional Act, directed the local authorities of Upper and Lower Canada to commence reserving one-seventh of the lands for the support of a Protestant Clergy, they gave instructions that the lands so to be reserved, were to be intermixed with those to be granted to individuals; the intention being to have them chequered over every township in the proportion of one-seventh of the whole. It was found difficult to comply with this requirement, as nearly all the lands in the Niagara, and a large portion in the Western District, as well as several townships on the St. Lawrence had been granted. Reserves were therefore made in blocks in the nearest ungranted townships. As a general rule, each township, except those bordering on lakes and rivers, contains 66,000 acres; of which one-seventh, the proportion of the Clergy Reserves, is 9,428 acres. The distribution of the Reserves in Upper Canada was as follows:—

Original quantity of Clergy Reserves in Upper Canada.

Eastern, District.....	104,791
Ottawa,.....	97,327
Johnstown,.....	141,646
Bathurst,.....	151,283
Prince Edward, ...	26,200
Midland,.....	248,856
Newcastle,.....	273,660
Home,.....	418,333
Gore,.....	146,960
Niagara,.....	25,450
Talbot,.....	52,400
London, ...	238,019
Western,.....	211,240
Reservation for the Six Nation Indians in the Gore District,	96,400
Huron Tract,.....	157,142
Total No. of acres in U. Canada,	2,395,687

In Lower Canada, no Reserves were made till 1796. They amounted, in that Province, to 934,052 acres; a little over one-third of the quantity in Upper Canada. These reservations kept pace with the grants for other purposes; according to the ratio fixed by law. They continued to be made, in various quantities, every year, with the single exception of 1813, till 1838. The legal prohibition to make more reserves was not in existence till the passing of the Imperial Act of 1840. The greatest number of acres reserved, in Lower Canada, in any one year was 75,525, and the smallest 252 acres. In that Province, no reserves were made in respect of any lands that had been granted prior to the year 1791; while in Upper Canada no such restriction was made; a quantity equal to one-seventh of all the granted lands being reserved. To the different modes of proceeding, in the two Provinces, is partly ascribable the circumstance that, in Upper Canada, the quantity of reserves so far exceeds that in Lower Canada.

In the Magdalen Islands, Clergy Reserves were made to the extent of 8,143 acres.

We shall now take a view of the ecclesiastical condition of the population of Upper Canada at the period when Simcoe urged with so much pertinacity the necessity of establishing the Episcopal Church as the only means of "overturning a republicanism" which had no other existence than in vice Regal dreamings and desires. But first let us show from the following plain spoken letter from Gov. Simcoe that his object in

* The Earl of Harrowby felt himself called upon to state that he had repeated conversations with the noble lord (Grenville) upon the subject, and he (Lord Grenville) had not only expressed his opinion so, but he had requested him (the Earl of Harrowby) if any opportunity should offer, to state that both his own and Mr. Pitt's decision was, that the provisions of 31 Geo. III. were not intended for the exclusive support of the Church of England, but for the maintenance of the Clergy generally of the Protestant Church.—*Speech in the House of Lords, June 26, 1828.*

I understood him (Lord Grenville) to say, "that the distinction of a Protestant clergy, which is frequently repeated in the Act of 1791, was meant to provide for *any clergy* that was not Roman Catholic, at the same time leaving it to the Governor and the Executive Council of the Province to provide in future how that should be distributed."—*Evidence of Lord Sandon (Tory) before the Canada Committee, 1828.*

wishing to plant an established Church in Upper Canada was solely *political*:

Extract from a letter to His Grace the Archbishop of CANTERBURY, (DR. MOORE.)

Wolford Lodge,
December 30th, 1790.

MY LORD,

Agreeable to the offer which I made to your Grace, when I had the honour of some conversation with you, relative to the establishment of Episcopacy in Upper Canada, I take this opportunity of laying before you, as concisely as possible, my opinions on this very important subject.

I must beg leave to premise, that I am decisively of opinion, that a regular Episcopal establishment, subordinate to the primacy of Great Britain, is absolutely necessary in any extensive colony which this country means to preserve, and in particular, if the advantages which she aims at, are expected to be derived and increased proportionably to its degree of population. But in regard to a colony in Upper Canada, which is to be blessed with the laws, and the upright administration of them, which distinguishes and ennobles the country, and which colony is peculiarly situated amongst a variety of republics, *every establishment of Church and State that upholds a distinction of ranks, and lessens the undue weight of the democratic influence, must be indispensably introduced,* and will no doubt, in the hands of Great Britain, hold out a purer model of government, in a practical form, than has been expatiated upon in all the theoretic reveries of self-named philosophers.

The neglect of this principle of overturning republicanism in former periods, by giving support and assistance to those causes which are perpetually offering themselves, to effect so necessary an object, is much to be lamented; *but it is my duty to be as solicitous as possible, that they may now have due influence,* if I wish the proposed government to be a permanent one; and I am happy to feel the utmost conviction, that the best mode of population, and the best line of connexion, with the United States, is combined in giving due support to that church establishment, which I consider as necessary to promote the national religion, of which I am a sincere and humble believer, and to maintain the true and venerable constitution of my country.

(Signed) J. G. SIMCOE.

The division of Canada into two Provinces took place in 1791. Col. John Graves Simcoe, the first Lieutenant Governor of Upper Canada, directed all his efforts to the great object of securing the ascendency of the Church of England. To effect this object means were employed to repress the energies and prevent the growth of all other denominations. Appealing to the fears and the prejudices of the Home Government, he represented the establishing of the Church of England in Upper Canada as the only means of fostering that spirit of loyalty, on which alone the security of British dominion depended. This deception, at that time practiced with such signal success, has been but too faithfully adopted and maintained by the partisans of a dominant hierarchy in Canada ever since. Before setting foot in Canada, Col. Simcoe had resolved on the policy of exalting the Church of England in the Upper Province over all other denominations. To this predetermined policy he pertinaciously adhered in spite of the overwhelming evidence, afforded by the social and ecclesiatical condition of the Province, of the folly, the injustice and the danger with which his favorite scheme was fraught. Except the settlement at Detroit, no part of Upper Canada was settled or cultivated till the year 1784. At that time, a reduction of several corps of Provincial dragoons took place; and the necessity was imposed upon those who were discharged, of exchanging the sword for implements of Agricultural industry. Most of them chose for their new homes the Banks of the St. Lawrence and the rich soil of the Bay of Quinte. In 1777, the year after the declaration of American Independence, the Province received considerable accessions to its population by the influx of families who adhered to the British standard, consisting of Butler's Rangers and Royal Yorkers. The inhabitants comprised a great number of sects; a very small proportion of the whole belonging to the Church of England.* In the Eastern District, (at that time the districts were much larger than at present) then the most populous part of the province, there was not a single minister belonging to that Church; although the Lutherans and the Presbyterians had each a minister. The Roman Catholics, principally Scotch Highlanders, who had settled in considerable numbers in the Eastern part of the District, had their Priest. The Dutch Calvinists, in that part of the Province, were far more numerous than the Episcopalians. In the Midland District, where the strength of the Church of England principally lay, there resided but two ministers belonging to that denomination. Even there, the Episcopalians were outnumbered by the single denomination of Methodists. Many of the inhabitants, who held the largest properties in that District were Dutch Calvinists. In the Home District there was but one Church of England Clergyman. Here the Presbyterians were numerous. They had built a Church and raised subscriptions for the support of their own minister. In the Western District, there was not a single Episcopalian minister. In that District, the Dutch Calvinists and the Methodists were numerous. The Roman Catholics here also had their Priests.

Such was the ecclesiastical condition of Upper Canada, in 1792, when Lieutenant Governor Simcoe represented to the Home Government the necessity of establishing the Church of England in the Province. His views were readily seconded by the Right Hon. Henry Dundas, Secretary of State; who, in one of his despatches, expressed the opinion that "Government would not be complete without a Protestant Bishop." Lieutenant

† A very small proportion of the inhabitants of Upper Canada have been educated in this persuasion; [the Church of England] and the emigrants to be expected from the United States will for the most part be sectaries or dissenters.—*Report on Marriages, and the state of the Church of England in Upper Canada to Gov. Simcoe,* by Richard Cartwright Jun., 1792. Mr. Cartwright was a member of the Church of England.

Governor Simcoe made no secret of his cherished desire to direct the mind and mould the character of the infant colony, through the predominant influence of the hierarchy, for the erection of which he manifested the utmost impatience.

CHAPTER II.

The object of the projected Religious Establishment avowedly political.—Design of placing the Education of Youth under Episcopal control.—Exclusion of Episcopalian Ministers ordained in the United States.—Simcoe as a Sectarian Advocate.—Attempt to introduce the Tythe System; Its Failure.—Hierarchial Project still pursued.—The Church of England's Monopoly of the right of Solemnizing Matrimony results in making the Majority of Marriages in U. C. invalid, and their Offspring Illegitimate.—Evidence of a design to Erect a Political Church.

Anterior to the passing of the law which authorized the making of Clergy Reserves, Governor Simcoe had expressed himself in favour of erecting in Upper Canada, an Episcopal establishment, subordinate to the primacy of Great Britain. His advocacy of this measure was based on political motives, which were expressed with an unguarded frankness scarcely compatible with the prudent advocacy of an ulterior purpose of such extensive grasp and portentous magnitude. "The state propriety," says this functionary, in a letter to Mr. Secretary Dundas, June 2, 1791, "of some prescribed form of public worship, politically considered, arises from the necessity there is of preventing enthusiastic and fanatic preachers from acquiring that superstitious hold on the minds of the multitude, which persons of such a description may pervert, to the establishment of their own undue consequence in the state, and often to meditate, and not unfrequently to turn such an ascendancy to its own injury and destruction." It was under the overpowering influence of these confessed political motives that the appointment of an Episcopalian Bishop was urged on the attention of the Imperial Government, who gave a willing ear to the suggestions of a policy, which under the pretext of religion sought the establishment of an omnipresent political propagandism. Under the superintendence of the hierarchy it was proposed to place the education of the youth of the infant colony, alike in the common school, the seminary, and the university, of which the establishment was about this time first suggested. The characteristic remark of Mr. Secretary Dundas that he "did not think the government would be complete without a Protestant Bishop," is proof of a complete harmony of sentiment on the subject between the advisers of the Sovereign in England and the Canadian Viceroy. Already had a state appointed bishop been established in the Province of Nova Scotia; and he would be unreasonably sceptic who should entertain any doubt that there existed a design in high quarters to transplant in the British Colonies on this side of the Atlantic, a State Church on precisely the same footing as it exists in England. Whatever design may have been cherished by the Imperial authorities in authorizing the allotment of lands for the support of a Protestant Clergy, certain it is that Simcoe uniformly proceeded upon the assumption that the Church of England was to be regularly established in Upper Canada. His urgent request in regard to the appointment of a Bishop met a ready response from the Imperial Government of the day; and Mr. Secretary Dundas in a despatch of the 2nd May, 1793, announced that the Establishment of a Bishop's See in Canada was under consideration The appointment of Dr. Mountain as Bishop of Quebec soon followed. The language of Simcoe fully justifies the conclusion that this step was taken as a political measure; with a view "of forming the character, temper, and manners of the people of the "infant colony." So closely guarded were the measures taken to effect this political end that Episcopalian ministers who had been ordained by Bishops in the United States were by law incapacitated from performing any duty in Upper Canada. The Imperial Government was necessarily dependent for information respecting the state of the Province chiefly upon the Lieutenant Governors, the first of whom that came to Upper Canada, Col. Simcoe, spoke with unbounded contempt of "every kind of sectaries," of whom he represented that many were hostile and none congenial to the British Constitution. With great adroitness he appropriated the term Protestant Clergy, and sought to confine its application, in connection with the Reserves, exclusively to Episcopalian ministers, for whose sole use and benefit he claimed these lands. This style of treating the question runs through his official correspondence from the year following that in which the Constitutional Act was passed. Yet it is evident to a close observer that Simcoe betrayed some misgivings on this point; for on one occasion we find him speaking of the Clergy Reserves as likely to become, at no distant day, "a temptation to those who shall be hostile to the union of Upper Canada with great Britain;" and on another, predicting "That the next claim of the dissenters would be a portion of the sevenths set apart for the national clergy." To maintain for the Church of England an exclusive claim to these lands, Simcoe was compelled to descend to the trick of substituting for the term of "Protestant Clergy" that of "National Clergy." It is worthy of remark that the "dissenters" to whom allusion is here made, were Scotch Presbyterians, whose clergy claimed to be quite as national as those of the church of England. But it must be remembered that Simcoe spoke as the advocate of a denomination; not as the authorized expounder of the Law; and that his opinions were directly opposed to the decision subsequently pronounced, first by the Law Officers of the Crown, and afterwards by the twelve judges of the realm.

As part of a general system which an effort

was now being made to introduce into Upper Canada, resort was had to the collection of tythes from the protestant population for the maintenance of the Episcopalian Clergy; but it was soon discovered that this impost would not be patiently borne, and the practice was prudently abandoned. A desire was expressed to make the relinquishment of tythes the occasion for extorting from the colonists an equivalent of which it was imagined the exaction would be less obnoxious. Lord Dorchester, (at one time Guy Carleton) Lieutenant Governor of Lower Canada, was the first to suggest that the abandonment of tythes should be made conditional on the settlers providing the means of clearing part of the Clergy Reserves and complying with other onerous conditions which are thus stated by Mr. Secretary Dundas, by whom the scheme was cordially approved, in a letter to its author, of the 16th Sept., 1791:—"As there does not, at present, appear to be sufficient provision for the support of the Protestant Clergy, either in Upper or Lower Canada, the collection of tythes has, under the Act of the present year, been suffered to continue. But your Lordship will understand, that it is not wished to continue this burden longer than is necessary for the competent provision of the clergy. If, therefore, the proprietors of lands, liable to the payment of tythes, shall be induced to concur with your Lordship's recommendation, in providing a sufficient fund for clearing the reserved lands, and for building parsonage houses on the several parsonages which may be endowed under the Act of the last session of Parliament, and at the same time provide an intermediate fund for the maintenance of the Clergy, during the period that will be required for the purpose of so clearing these reserved lands, the obligation of tythes may then cease." Reference is here made to that clause of the Constitutional Act which re-enacts the provision of the Act of 1776 authorising the receipt of tythes by such Protestant Clergy as the Lieutenant Governor should name for that purpose. Another part of the constitutional act was afterwards pointed to (1794) by the Duke of Portland, as authorizing the collection of tythes. "There cannot," he says, be a "shadow of doubt, relative to the construction of the Canada Act, which annexes to Rectories and Parsonages erected under the same, the enjoyment of all the rights, profits and emoluments, belonging to a Parsonage or Rectory in England, which must necessarily include tythes." From the language of Mr. Dundas it appears that there existed an immediate intention on the part of the Imperial Government to authorize the erection and endowment of Rectories; for that act must necessarily have preceded the building of Parsonage houses, which it was proposed to make a condition of release from the burthen of tythes. Even Governor Simcoe was compelled to admit that the tythe system was the most grievous of all burthens that the young colony had been called on to endure. But he too, as late as 1795, the year previous to the abandonment by the Imperial Government of all attempts to enforce on an unwilling people the collection of tythes, sought to extort for their relinquishment a like equivalent to that already noticed. This recommendation to the Imperial Government he did not hesitate to make, at a moment when he was compelled to admit that it was not "possible to render the perception of tythes useful to the clergy or palatable to the people." "The experiment," he continued, "I am persuaded, would be most dangerous; * * as a measure unknown to the American settler, and originating in this country I do not think it practicable to be carried into effect." This deliberate condemnation of the tythe system, pronounced officially by the warmest partisan of the Church of England decided its fate. Forthwith and unconditionally it was abandoned. Scarcely had six months elapsed, after the writing of Simcoe's despatch, when the Duke of Portland communicated in reply the pleasing intelligence that it had "been determined to abandon every idea in the nature of tythes." The relinquishment of tythes was dictated by that political prudence which concedes what it is no longer safe to withhold; but which narrows the concession to the smallest limits that will satisfy the popular demand for the time. It was conceded rather as a measure of expediency than of absolute justice to the Colonists. The Parliament of Upper Canada afterwards passed a law enacting "that no tythes shall be claimed, demanded or received, by any Ecclesiastic, Parson, Rector, or Vicar, of the Protestant Church within this Province, any law custom or usage to the contrary notwithstanding." To this act the Royal assent was promulgated by proclamation on the 20th February, 1823. It placed any Rectors that might afterwards be appointed (for no Rectories had yet been created), on a footing entirely different from that of English Rectors. A Rectory without tythes would in England be an ecclesiastical misnomer. There, the Rector receives what are called the great tythes; tythes of the produce of the land; (by commutation) and his Deputy or Vicar receives the small tythes, of poultry, eggs, &c., also by commutation.

With the relinquishment of tythes the hierarchial project of the Imperial Government was by no means abandoned. The Clergy Reserves yielded no disposable revenue, but the time was looked forward to when they would produce an ample provision for the Episcopalian Clergy. Until they could be made to yield a sufficient revenue, the Imperial Government had resort to temporary expedients. In the exigency of the case, the Secretary of State recommended the addition to the estimates of Upper Canada of £500 towards the building of Churches in the Province. The Episcopalian Ministers whom it was intended to send out to Upper Canada were promised temporary salaries from the Imperial Government, which it was understood would be augmented by contributions from the Society for the promotion of the Gospel in Foreign Parts. In 1795, it was distinctly intimated by the Duke of

Portland to Lieut.-Gov. Simcoe that these allowances from the Imperial Treasury must be considered as temporary; and that they would cease as soon as the Church lands should become sufficiently productive to yield a maintenance for the officiating Clergy. It was felt, however, by the High Church party that the temporary expedients already devised for the maintenance of a clergy whose services were but little appreciated by the colonists, were inadequate to their designed purpose; but all the recommendations of the Home Government to the Lieutenant Governor to fix upon some mode of temporarily securing them a more ample maintenance, failed to produce any practical result.

The appointment of an Episcopalian Bishop was not the only suggestion of Governor Simcoe, to ensure for the Church of England a factitious ascendency over all other denominations, that was carried into effect. In the early settlement of the Province, the absence of Clergy rendered necessary the performance of the marriage ceremony by laymen. It was the custom in the army for the commanding officer or the Adjutant General to read the matrimonial service, from the Church of England prayer book; and in the settlements this office devolved on the Justices of the Peace. These marriages—and they formed the majority in Upper Canada—were not valid in law; their offspring were illegitimate and not entitled to inherit property. Governor Simcoe, in the second session of the Legislature of Upper Canada, procured the passing of an Act ostensibly to legitimate the offspring of these marriages, but the effect of the measure was to render invalid all future marriages not solemnized by ministers of the Church of England. Against this partiality and injustice other denominations strongly remonstrated. This Bill, before being introduced into the Legislature of Upper Canada, was submitted to the Home Government and of course sanctioned by them,—another fact which goes to establish a concert between the Imperial Cabinet of the day and Governor Simcoe to invest the Church of England in this Province with the exclusive privileges of a State Church. By these means it was hoped that other denominations could be prevented from acquiring further influence and importance. Of the American Puritans who emigrated to Canada, Governor Simcoe, in one of his despatches, says, in the spirit of sectarian exultation, "The state of poverty in which they must for some time remain after their emigration, will naturally prevent them from the possibility of supporting their ministers by public subscription; in the meanwhile, the Government has it in its power to provide for any Protestant clergyman in the separate townships by giving landed property, in perpetuity for himself and family, entrusting him with the care of the one seventh which is to be reserved for the Protestant Clergy." The Presbyterians of the county of Grenville in a petition to the Legislature complained, with much spirit and boldness, of the marriage Act which rendered all marriages solemnized by their ministers void in law, and as a consequence the issue of such marriages illegitimate. This disqualifying distinction they were unconscious of having done anything to merit. Regarding marriage as a religious ordinance, they boldly asserted that "all christian marriages solemnized in the fear of God, and agreeable to his law, should be equally valid with the laws of men." The prejudicial insinuations thrown out, in high quarters, against the Presbyterian system of church polity as hostile to monarchy they vigorously rebuked; challenging an appeal to history, for a refutation of what they treated as a calumny, and complained of being pursued by "political vengeance, upon pretences that would neither bear light nor examination." The petition concluded not with a prayer but a demand: the petitioners declaring that "they flatter themselves the honorable Legislature will repeal such parts of the marriage Act as tend to make them aliens in their own country, and have therefore given just cause of uneasiness to every member of the communion."—This petition was signed by nearly all the magistrates in the county of Grenville, under the belief that the marriage act if continued would result in serious popular tumults. In conversation with some members of the communion from whom the petition emanated, Gov. Simcoe denounced it as the product of a wicked "head and a most disloyal heart;" and what more clearly shows the intolerant spirit by which he was actuated, was the declaration, "I would not assent to, nor reserve for His Majesty's pleasure, any bill whatever that should be founded thereon, but would give it my most absolute and decided negative." Simcoe evidently persuaded himself that he had performed a highly meritorious act; for he boasted of it to the Imperial Government in a style of self-complacency that showed how deeply he believed himself to have merited the regards of his superiors.

We have purposely amplified our range of discussion with a view of presenting in all its length and breadth the question of political religion in Upper Canada, immediately after the passing of the Constitutional Act. There is little ground on which to rest a doubt that the Imperial Government sought, under the cover of a convenient ambiguity, to lay the foundation of a state church in Upper Canada, in the allotment of a seventh of the granted lands to the support of a Protestant Clergy: the building up of the superstructure or the abandonment of the project was left to depend on the temper of the people; not indeed that there existed any feverish desire to defer to the popular will, but from the manifest impossibility of carrying out the most cherished plans if this element should prove adverse. To establish the Church of England was the first object; to oppose to the Church of Rome in Lower Canada an incongruous Protestantism in the Upper Province was next to this considered most desirable. The attempt to effect the first object was made with a studied indirectness which, in case of failure, would render easier and less inglorious a retreat; because less obvious to the popular conception. This hypothesis is

supported by many and striking facts. The unnecessary ambiguity of the Constitutional Act; Simcoe's construction of the term Protestant Clergy; his great anxiety to hasten the erection of the Church of England hierarchy, in Upper Canada; the promptitude with which his arguments in favor of the appointment of a Bishop were responded to by the Imperial Government; the abortive attempt to collect tythes from the whole Protestant population for the exclusive benefit of the Episcopalian Clergy; the confident manner in which the Duke of Portland, Secretary of State, (1795) looked forward to the time when the church lands would become sufficiently productive for the maintenance of that Clergy; the disallowance of the right to solemnize matrimony to all other than Episcopalian clergymen, including even those of the Church of Scotland; the design of placing the education of youth under the Church, the object of establishing which was avowedly political; the matter-of-course style in which Mr. Secretary Dundas, as well as his successor, the Duke of Portland, spoke of the future erection and Endowment of Rectories throughout the Upper Province; these facts—and the catalogue might be much extended—furnish to our mind abundant evidence in support of the position that, at and immediately subsequent to the passing of the Constitutional Act, there did exist an intention to establish, in Upper Canada, a State Church on the same footing as it exists in England.

CHAPTER III.

The Leasing System.—First movement in the Upper Canada Parliament against the Reserves.—Opinion of the Law Officers of the Crown as to the Right of other Denominations than the Church of England to participate in the Reserves.—Lord Bathurst's Instructions to make Rectories.—The Family Compact shrinks from the responsibility of a general creation of Rectories.—Creation of Two Clergy Corporations to manage the Reserves.—The battle between the Churches of Scotland and England.—Atrocious Scheme of the High Church Party in connection with the Reserves.

Thirty-six years elapsed after the passing of the constitutional act before an acre of the Reserves were sold. During that period the leasing system was exclusively in operation. The term of the leases was for twenty-one years. Under the original regulations the following were the rates of rent per annum:—

1st 7 years, . .	10s.	per lot of 200 acres or lot of a less quantity.
2d 7 years, . .	20s.	
3d 7 years, . .	30s.	

As settlement increased the value of the lands also increased. In April, 1811, the following augmented rates per annum were adopted:—

1st 7 years, . .	£1 15.	per lot of 200 acres or lot of a less quantity.
2d 7 years, . .	3 10.	
3d 7 years, . .	5 5.	

In 1819 still higher rates were adopted. The great number of free grants to loyalists of the American revolution had thrown into market, at very low rates, an amount of land nearly equal to the demands of the settlers. The natural result was that leases for Clergy Reserves were but slowly effected. So late as 1824, the whole amount due for rent was only £1,200; and of this it was estimated that not more than one-third could be collected without having recourse to legal process.

These reservations were always unpalatable to the mass of the people. So long as they yielded no revenue they were regarded as objectionable chiefly on account of the obstacles they imposed to the progress of settlement. If the claim of the Church of England to a monopoly of the lands was not contested in the Provincial Legislature it was because there was no available revenue about which to dispute. Public opinion never acquiesced in that exclusive claim. Long before any movement was made in Parliament on the subject a great majority of the population of Upper Canada viewed the question in a temper that only wanted an opportunity to contest the pretensions of the Church of England.

It was in 1817 that the first move was made in the Upper Canada Parliament on the subject. Mr. Robert Nichol proposed a series of resolutions for alienating, in the first instance, one half of the lands and devoting the proceeds to secular purposes. The arguments, subsequently of so much force, were not applicable to the then state of the question. No minister of any denomination received a farthing from the lands. Mr. Nichol regarded so large a quantity of unappropriated lands as offering a premium on invasion. His resolutions were defeated by Governor Gore's prematurely proroguing Parliament.

Next came the question of the legal construction of the Constitutional Act. The Church of England construed that instrument, in a way that might have been expected from interested sectaries. They claimed an exclusive right to the whole of the lands.

In 1819, certain Presbyterian inhabitants of the town of Niagara petitioned the Lieutenant Governor for an annual allowance of £100 a year towards the support of a minister. During the American war their Church had been destroyed by fire; and the minister who had formerly spent part of his time among them, had deserted the barren pasture, leaving the flock to take care of itself. These Presbyterians, accustomed in Scotland to have their ministers supported at the public cost, had no idea of paying for the spiritual instruction they desired. Hence their appeal to the head of the Executive Government. They did not claim as a right to participate in the funds arising from the Clergy Reserves; and were quite indifferent as to the source whence the solicited gratuity should come. Their sole anxiety was to devolve on the public the maintenance of their minister. Nor were they wanting in that extreme obedience to the direction o

the State, which was the natural result of their position. They freely offered to barter the right of choosing their own minister, and to place it in the hands of the Government, for the paltry stipend in the hope of receiving which they had become supplicants at the feet of the Executive. Sir Peregrine Maitland transmitted the petition to the Imperial Government, accompanied with a Despatch, in which he observed that the petition raised a question, on which a difference of opinion existed, viz.: "Whether the [Constitutional] Act "intends to extend the benefits of the Clergy Re- "serves to all denominations, or only to those of "the Church of England;" intimating that the Provincial Law Officers of the Crown seemed to incline to the latter opinion. * He also suggested the necessity of bringing to a decision the question, on which there existed a lively feeling throughout the Province. The Colonial Secretary acted upon the suggestion, and procured the opinion on the question of the Law Officers of the Crown. That opinion, of which the following is a copy, was communicated by Lord Bathurst to Lieutenant Governor Maitland in a Despatch dated May 6, 1820:

Copy of the opinion of His Majesty's Law officers relative to the Clergy Reserves; dated 15th November, 1819.

DOCTORS' COMMONS, 15th Nov., 1819.

My Lord,

We are honoured with your Lordship's commands of the 14th Sept. last, stating that doubts have arisen how far, under the construction of the Act passed in the 31st year of His present Majesty, (c. 31) the dissenting Protestant ministers resident in Canada have a legal claim to participate in the lands by that Act directed to be reserved as a provision for the support and maintenance of a Protestant Clergy.

And your Lordship was pleased to request that we would take the same into consideration and report to your Lordship, for the information of the Prince Regent, our opinion, whether the Governor of the Province is either required by the Act, or would be justified in applying the proceeds of said lands to the maintenance of any other than the Clergy of the Church of England resident in the Province; and in the event of our being of opinion that the ministers of dissenting Protestant congregations have a concurrent claim with those of the Church of England, further desiring our opinion, whether in applying the reserved lands to the endowment of rectories and parsonages, as required by the 38th clause, it is incumbent on his Majesty to retain a proportion of those lands for the maintenance of the dissenting Clergy, and as to the proportion in which under such a construction, the provision to be assigned to the different classes of dissenters established within the Province.

We are of opinion that though the provisions made by 31 Geo. 3, c. 31 ss. 36 and 42, for the support and maintenance of a Protestant Clergy, are not confined solely to the Clergy of the Church of England, but may be extended also to the Clergy of the Church of Scotland, if there be any such settled in Canada (as appears to have been admitted in the debate upon the passing of the act,) yet they do not extend to the dissenting ministers, since we think the terms "Protestant Clergy" can apply only to Protestant Clergy recognized and established by law.

The 37th section which directs:—"that the rents and profits of the lands, &c., shall be applicable solely to the maintenance and support of a Protestant Clergy," does not specify by what authority the rents and profits are to be so applied. Supposing the Governor to be duly authorized by the Act to make such application, we think that he will be justified in applying such rents and profits to the maintenance and support of the Clergy of the Church of Scotland, as well as those of the Church of England, but not to the support of ministers of dissenting Protestant congregations.

With respect to the second question, the 38th clause, "which empowers His Majesty to authorize the Governor to constitute and erect parsonages or rectories according to the establishment of the Church of England;" provides also, "that he may endow every such parsonage or rectory with so much of the lands allotted and appropriated, in respect to any land within such township or parish which shall have been granted, as the Governor, with the advice of the Executive Council, shall judge to be expedient."

Under these terms he may endow any particular parsonage or rectory with the whole lands allotted and appropriated in that township or parish.

It would be inconsistent with this discretionary power, that any proportion of such lands should be absolutely retained for any other clergy than those mentioned in that clause, and we think it is not incumbent on his Majesty so to retain any proportion of such lands.

We have the honor to be, my lord,

Your lordship's most obedient servants,

(Signed,) CHRIST. ROBINSON,
R. GIFFORD,
J. S. COPLEY.

Earl Bathurst, &c., &c., &c.

The legal opinion thus pronounced left open to the Executive two courses of proceeding. It was competent for the Home Government either to have directed the Governor to admit the Church of Scotland to a share in the produce of the reserves, or to establish rectories in every township and endow them with the whole of the lands. It was solely in the discretion of the Imperial Government, by a choice of either alternative, practically to reject or admit the monopoly claim of the Church of England. But unless the Provincial Legislature exercised the power vested in it to vary or repeal the provisions of the Constitutional Act, all other denominations were excluded from the right of participation. Lord Bathurst (May 6, 1820) did apparently intend to authorize

* The word "former," and not "latter," was employed in the original Despatch. Something more than six years after, Sir P. Maitland wrote another Despatch, to correct the mistake! In this Despatch, he says the word *incline* was used because the Chief Justice had some doubts on the subject; but that on fuller consideration those doubts had been entirely removed. The other Law Officers of the Crown, he states, had always been of opinion that the Reserves appertained exclusively to the Church of England. This correction, substituting the word "latter" for "former" has all the appearance of being an afterthought, put forth to suit the occasion.

the immediate establishment of rectories, as the means of securing to the Church of England a large share and in many localities the whole of the Reserves. "I am therefore," says his Lordship, after having given a *resume* of the opinion of the Law officers of the Crown, to acquaint you, [Sir P. Maitland] that although it would be generally speaking, most expedient to make, in the first instance, a competent provision for the Church of England in the colony, yet in every parish in which the members of the Church of Scotland very greatly predominate, it appears both advisable and proper that a proportionate allotment should be reserved for a minister of that Church." Perhaps this language was not considered sufficiently explicit to be received as instructions to commence a general creation of Rectories; though if such were not the intention of its author it would be difficult to discover in it any definite meaning at all. It was at least a suggestion, based on the opinion of the Law officers of the Crown, that it would be expedient to commence the creation of rectories and to endow them with all the reserves made in respect of each Township, (9429 acres) except those localities where the members of the Church of Scotland greatly predominated; and even there to reserve only what would support one minister of that Church. If by the term "proportionate allotment" it was intended to signify an allotment in proportion to the number of those who adhered to the Church of Scotland as compared with the rest of the population or with the Church of England, then it is evident that in certain localities* the Church of Scotland's share would have been far from insignificant. But in no case was she to receive any portion till the Church of England had obtained a "competent provision" in the shape of rectory endowments. But supposing the Despatch of Lord Bathurst of May 1820 to have been sufficient authority for the creation of rectories; the question arises, why was it not acted upon by Sir P. Maitland to whom it was addressed? Neither he nor the irresponsible counsellors—Chief Justice Powell, Dr. Strachan, McGill, Baby, and Wells—by whom he was surrounded would intentionally throw any obstacle in the way of the Church of England securing that dominant position in Upper Canada which she sought to attain. On the contrary, they spared no pains to assist in giving her a factious elevation. It is however not impossible to conceive motives which might operate on the mind of Maitland to cause him to pause in carrying out the instructions of the Colonial Secretary. Certain it is that he desired to defeat the claim of the Church of Scotland. Of this his despatch of the 27th Dec. 1823 to the Earl of Bathurst contains incontestible proof. He there asserts that the 31st Geo. 3. chap. 31 "does not in any manner recognize or allude to the Church of Scotland; and if they can be brought within its provisions, it is only on the ground that the general term protestant clergy necessarily embraces them: *but upon the same construction the Clergy of all other denominations must be admitted*, and there are several other denominations in Upper Canada far more considerable in numbers of teachers, and extent of congregations than the Church of Scotland." This was not the most judicious of arguments that could be employed by which to enforce the monopoly claim of the Church of England. But it was directed to the pride of the Church of Scotland, which had shown no disposition to stoop, as she would have considered it, to accept a claim on equal terms with all other denominations. The bold assumption by which Maitland sought to carry his point was in direct opposition tothe opinion of the law officers of the Crown; by whom the claim of the Church of Scotland had been placed on a footing entirely different from that which any other denomination might have preferred. In the despatch just quoted Sir P. Maitland, with remarkable inconsistency, alleged his willingness "to acknowledge a claim of preference in the Church of Scotland over the different dissenting denominations to such assistance as His Majesty can conveniently provide them without material detriment to the Church of England." But this preference did not extend to their claim to participate in the reserves: it was confined to giving them "ground for the site of a Church and Church yard, and an allotment of land for the residence of their mimisters." It is a legitimate conclusion that the desire to defeat the claim of the Church of Scotland to any portion of the Reserves may have influenced Maitland not to act on the instructions of Lord Bathurst contained in his despatch of May 1820. Maitland and his council saw in the temper of the times the danger to be apprehended from such a course as the wholesale creation and endowment of Rectories; and with the power in their hands they shrank from the responsibility of executing the design which of all others, of a public nature, lay nearest to their hearts. The discontents of the Province had but a few years previously, at the time of the Gourlay Convention, almost reacted a crisis. To have added to the existing elements of popular discontent a numerous creation of Rectories might have invested the question of a State Church with an importance which was scarcely dreamed of so long as the only practical grievance of the Clergy Reserves consisted of the obstacles they imposed to the progress of settlement.

In 1819, the House of Assembly of Upper Canada manifested some uneasiness respecting the revenue derived from the Clergy Reserves. They addressed the Lieutenant Governor for a return of the Clergy Reserves leased, and of the amount of Revenue derived therefrom, with an account of its appropriation. To this address the Lieutenant Governor replied that the revenue of these lands was placed by the British Parliament under the control of the King; and he must ask instructions from the Prince Regent on the subject. The

* These could not have been very numerous, for if we accept the statement of Governor Maitland there were in 1823 only four ministers of the Church of Scotland in the whole Province.

annual product of the Reserves was, at that time, about £700.

In the same year 1819, Dr. Mountain, Bishop of Quebec, made application to the imperial Government to secure for the Episcopalian Clergy the direction of the Clergy Reserves. This request was readily assented to by the Imperial Government; who, with the view to carrying the arrangement into effect, created a Clergy Corporation in each section of the Province. The powers vested in these corporations were limited. They were only allowed to perform the duties of trustees; to lease the lands and receive the rents; of which they were required to pay over every farthing to the Receiver general; to be applied, by the direction of the Imperial Government, towards the support and maintenance of a "Protestant Clergy." They were permitted to compound with lessees, in cases where the arrearages were large. It was in 1820, that this limited direction was confided to these newly erected clergy corporations. Whether it resulted from defective management, or some other cause, the product of the Reserves, small as it had previously been, now underwent a diminution. In the year previous to the creation of these corporations, the amount had been about £700. In each of the three following years, it was not one-third of that sum:

Year	*Receipts for Leases.*
1820	£259 15s. 6d.
1821	210 15s. 4d.
1822	150 5s. 8¾d.

The average receipts from the whole of the Clergy Reserves for the three years were only £206 19s. 2¼d. The transfer of the Trusteeship of the land to the clergy corporations, could in no way affect the claims or the pretensions of the Church of England; though it inspired them with that feeling of confidence which the stewardship was calculated to produce. The Episcopalians assumed a tone of arrogance not wholly unnatural to their position. Especially did they plume themselves upon the circumstance that their Clergy had been erected into a corporation, in each Province "for superintending, managing, and conducting the Clergy Reserves." They boasted themselves guardians of the property. At the same time they claimed to be its sole and exclusive owners. The adverse claim made by the Church of Scotland to participate in the benefits of the Reserves they treated not merely as invalid in law, but as arrogant and presumptious. The Episcopalians affected to consider themselves the lords of one-seventh of all the surveyed lands of Canada; and elated with the prospect of future power and riches, their leaders adopted a deprecatory tone towards all other denominations.

The judicial opinion of the law officer of the crown was never respected by the high church party. The long and violent struggle that ensued between the Episcopalian and the Scotch Churches had its source in the fortunate vascillation of the Executive Governments—Imperial and Provincial—which never ventured to carry into effect the legal construction of the Constitutional Act. For a period of more than twenty years no authority insisted on the carrying into effect the law as expounded by the legal advisers of the Sovereign. To the authoritative construction of the term "Protestant Clergy," the high Church party clamorously opposed their own selfish interpretation. The Church of Scotland continued to press its now recognized but unsatisfied claim, by petitions to the Imperial Government. In 1823, it enlisted in its favor the suffrages of the House of Assembly of Upper Canada. The Address of that body to the King, which had been rejected by the Legislative Council, on behalf of the Church of Scotland treated as unsettled the meaning of the Constitutional Act, and based the claim of the Church of Scotland to an equality of rights with the Church of England, on the Act of Union between the Kingdoms of England and Scotland. It prayed that some other provision might be made for the Church of Scotland, if that Church was to be considered as legally excluded from participation in the Reserves. This address was passed at the instance of Mr. William Morris, who appeared as the champion of the Church of Scotland. The General Assembly of that Church, in Scotland, also addressed the Provincial Government to extend pecuniary aid to their ministers in Canada; expressing indifference as to the source whence it should be derived, and promising to give the Government "all the security for the good conduct" of the stipendaries that subjection to regular ecclesiastical control could afford.

While the Church of Scotland was thus humbling itself in the dust at the feet of the State, its mendicant appeals were perseveringly opposed by the high Church party; who were equally unscrupulous in the choice and the use of weapons. All the sympathies of the High Tory Secretary of State, Lord Bathurst, and the active exertions of Lieutenant Governor Maitland were in favor of the High Church party. The Lieutenant Governor, a weak man with strong prejudices, was completely under the control of Dr. Strachan, then Rector of York, and now Bishop of Toronto. Their joint labours were directed to the great object of making good the exclusive claim of the Episcopalians to the Reserves. What Dr. Strachan asserted in petitions, sent forth by the Clergy Corporation, Sir P. Maitland unhesitatingly endorsed in official despatches. Some of Dr. Strachan's productions were gross libels on the majority of the Canadian population. In the art of manufacturing ecclesiastical charts he acquired a celebrity, that will last as long as his personal history. Accompanying the first petition bearing his signature was one of these documents. The petition abounded in calumnies not a whit less gross than those contained in the documents accompanying a subsequent chart prepared by the same hand, and of which all the material statements were disproved before a committee of the House of Commons in 1828. This petition sought to invalidate the claim of the Church of Scotland, on the allegation that nearly the whole

population were eagerly flocking beneath the Episcopalian Standard; where, it asserted, the greater proportion of all protestant denominations would soon be found. It represented that all denominations were desirous of having their children taught the Episcopalian catechism; that whole neighborhoods carried their children to Episcopalian ministers to be baptized, that old and young submitted themselves in great numbers to the rite of confirmation, and "that the Church of England, from the favorable disposition towards it, would soon be able to collect within its bosom the bulk of the inhabitants, if no prospect of supporting their (own) Clergy were held out to the various Protestant denominations." Dastardly insinuations were thrown upon the loyalty of ministers of other denominations; and they were represented as almost wholly without congregations. The claim of the Church of Scotland was pronounced invalid in point of law. The gross exaggerations thus put forth are sufficiently notorious to all who have paid any attention to that period of our history. In the meantime, the Bishop and Clergy of Quebec were not inactive. They too solicited the powerful support of Sir P. Maitland, in their endeavors to secure to their Church the exclusive enjoyment of the Reserves. Nor did they find in him an unwilling ally. All the strength of his official influence was promptly put forth in their favor. In his long despatches, which were full of special pleading, he boldly endorsed all the exaggerations of the Clergy Corporations. In his eagerness to support the exclusive pretensions of the Episcopalians, Sir P. Maitland unwittingly propounded a doctrine,* the acceptance of which would prove fatal to the very claims he wished to enforce. He opposed his own interpretation of the Constitutional Act to the construction placed upon it by the law officers of the Crown. In the very midst of this contention, two ministers of the Church of Scotland made an exchange of their religious faith for a stipend from the state. This was precisely the kind of act that Sir P. Maitland delighted to applaud; while parading it as a proof of the irresistible attraction of a richly-endowed church. The Church of Scotland exhibited gross inconsistency,—now it based its claims on the terms "Protestant Clergy," in the Constitutional Act; now, it grounded them on the Act of Union between England and Scotland.

In February, 1824, the High Church party opposed to the rival claim of the Church of Scotland a proposition remarkable for its audacious ingenuity. The scheme was the joint production of Sir P. Maitland and Dr. Strachan. It was drawn up by the hand of the latter, and supported by all the official influence of the former, at whose suggestion it had been framed. Of this scheme Dr. Strachan was the bearer to the Imperial Government. It proposed to commence the alienation of the lands, and the funding of the proceeds. It proposed that the Clerical Corporation of Upper Canada should be entrusted with power to alienate as well as to lease the lands; that the existing lessees should be permitted to purchase their lots in fee simple; that all defaulting lessees should be ejected, without receiving any compensation for their improvements; that the rent on renewing leases, in townships where Reserves had been sold, should exceed by one or two per cent. the interest of the purchase money; that the Clerical Corporation should have unlimited discretion to fix the quantity to be sold; that the right of having their leases renewed, which had been secured to the tenants, should be abrogated, and their improvements confiscated, and that they should receive compensation for the buildings they had erected only when the lots were leased or sold to other parties; that a quantity of land should be reserved from sale in every township, sufficient to endow three or four parsonages; and that the proceeds of the sales should be invested in British funds for the support of the Episcopalian Clergy.* If it be possible to conceive anything more atrocious than this scheme, it would be the arguments by which it was supported. The loss of Canada was darkly suggested as the inevitable consequence of rejecting the exclusive claims and audacious proposals of the High Church party. The American Revolution was held up as a warning to the Imperial Government; while the cause of that great event was mendaciously ascribed to the circumstance that the Church of England had not been established in the old Colonies. By such arguments was the scheme of Dr. Strachan and the High Church party sought to be sustained. This scheme presented to the minds of that party many advantages. It would have given them the entire control of the Reserves, and secured to them the exclusive benefit of the results of the sales; while it would have planted three or four Rectories in every township. To the tenants of the corporation it would have been an act of cruel oppression. It proposed to break faith with them, and to strip some of them of the fruits of twenty-one years of incessant toil. The extravagant projects of the High Church party were now fully developed. The scheme also proposed an increase of Episcopalian Clergy, supported out of the Reserve funds, at a rate which, by the year 1845, would have swallowed up £60,000 a year, each minister receiving an annual stipend of £200. The authors of this atrocious proposal offered to secure the allegiance of the Province to the Parent State, in exchange for the annual salaries of 300 clergymen. The Clergy Reserves, not an acre of which had yet been alienated, and which

* No subject of Great Britain, emigrating to a colony, carries with him any right to find provisions in force respecting the support of his religious teacher, similar to those which prevailed in his own country.—*Official Despatch*, Dec. 27, 1823.

* It does not appear that more was known of this scheme in Canada, than could be gathered from the statement of Dr. Strachan that he took with him to England, "a proposal to His Majesty's Government to enlarge the powers of the Corporations so that they might be able to sell as well as lease."

were looked to as the source of this princely revenue, were now more numerous than the whole of the remaining Crown Reserves.

This scheme was laid before the Imperial Government in 1824. The suggestion to commence selling the Reserves was adopted; but probably not in consequence of the recommendations of the High Church party. The joint scheme of Dr. Strachan and Sir P. Maitland was rejected by the Imperial Government;* and in December following, Lord Bathurst, in a despatch to Sir P. Maitland, announced that arrangements had been made for selling part of the Clergy Reserves to the Canada Company, and instructing him to intimate to the Clergy Corporation to abstain from granting any more leases.

CHAPTER IV.

Contest between the belligerent Churches—A third party appears on the Stage as the rightful arbiter of the dispute—Proposed alienation of part of the Reserves—The House of Assembly protests against more Reserve being made—Lord Bathurst claims all the Land for the Episcopal Church—Small bribes to the Churches of Scotland and Rome—Bishop McDonnell undertakes to regulate the political conduct of the stipendary Priests: he expels the Rev. Mr. Clever from his living for voting the wrong ticket—Pulpit politics—How the House deals with the question—Sop to the Canada Company—Selling the Lands—Reservation for Glebes.

In the battle between the Rival Churches no principle was at stake. The utmost stretch of Charity will not warrant the conclusion that either of the combatants was actuated by higher motives than those which spring from the desire of aggrandizement. The Episcopalians had a certain advantage over their rivals. Their active partisans were in daily communication with the Sovereign's Representative; of whom they were the interested and irresponsible advisers. In the Legislative council their dominancy was complete. Each successive Governor entered fully into all their views and feelings, and supported their exclusive pretensions and avaricious plans with all the influence of his position. Vice-Royalty prostituted its functions by meanly descending to the tricks of an unscrupulous partizanship. The dispositions of the Imperial Government were generally but too favourable to the intrigues of the ascendency faction. But there now appeared on the stage a third party; the people through their representatives, who ought to have been the sole arbiters of the question. For nearly twenty years all their efforts were rendered nugatory by the pertinacious opposition of an odious oligarchy. At the general election of 1824, when the question had began to attract general attention, the high Church party suffered an overwhelming defeat. Petitions were presented to the New House against the exclusive claims of both Churches, to whom the contest had hitherto been confined. The question was comparatively new to the people. They had not yet fully realized the pernicious influence exercised by the endowment of Churches by the State. A select committee of the House of Assembly appointed to take into consideration the petitions of the people on the subject, reported in favor of addressing His Majesty "praying that he will be pleased to "cause an application of the proceeds of such lands [alluding to the portion to be sold to the Canada Company] to be made towards the support of the "Protestant Clergy of every denomination "throughout the Province." On this report an address to the King was founded. Thus, the first time the people had an opportunity of pronouncing their verdict on the question, through a general election, they repudiated the exclusive pretensions of the two belligerent Churches; and if their mode of declaring in favour of what they conceived to be religious equality be not the best they could have adopted, it was clearly intended to be decisive as to the principle.

In the next Session, January 1826, the Assembly went a step further. The intention of the Imperial Government, already adverted to, to sell a portion of the Reserves to the Canada Company had assumed a tangible shape. The proposed alienation had been legalized by an Act of the Imperial Parliament. This Act contained a provision empowering His Majesty to make an allotment of other lands for the support of a Protestant Clergy in lieu of those to be sold. The House of Assembly, in an address to the King, protested against the proposal to make any more reserves, and called for the repeal of so much of the Imperial Act as authorized a new allottment. They also declared their "opinion that the extent "of the present reservation is injurious to the pros-"perity of the colony." They reiterated their prayer of the previous Session that all denominations should be allowed to participate in the proceeds of the reserves; or, better still, "if such "application or distribution should be deemed "inexpedient, that the profits arising from such "appropriation should be applied to the purposes of "education, and the general improvement of the "Province." Sir P. Maitland laughed in the very face of the House of Assembly, and taunted them with ignorance on the subject of their address. The proceeds of the reserves sold were to be transferred to the Crown; and the Lieutenant Governor affected to believe that the Assembly had acted in ignorance of this fact. But the truth is they were anxious to get rid of so much of the

* Dr. Strachan gave the following account of its reception:—"On my arrival in London, in April, 1824, I laid this proposal before His Majesty's Principal Secretary of State for the Colonies, Lord Bathurst, and found that his Lordship, as well as the Under Secretary, the Hon. R. W. Horton, were disposed to adopt it, if on consideration they should find it practicable, and not detrimental to the Church."

reserves as were authorized to be sold. This is evident from the strong opinion expressed in their address as to the injurious nature of the "present" extent of the reservations. Sir P. Maitland, the organ and advocate of the dominant oligarchy, pleaded before the Imperial Government the exclusive claim of the High Church party. He assured the High Tory nobleman who held the Seals of the Colonial Office, Lord Bathurst, that the Imperial Government, by giving way at all in the matter, would "leave the Church of England on a level with the dissenting sects." This was quite sufficient for Lord Bathurst. He wrote a despatch of less than a dozen lines, acknowledging the receipt of the address, and repeating the insult that had been offered by Sir P. Maitland; alleging "His Majesty commands to acquaint you that he is persuaded the House of Assembly would never have concurred in this Address, if they had been apprised of the true intent of the Act of Parliament referred to, which had not for its object any increase of the amount of the Reserves, *specially allotted by the Imperial Parliament for the Established Church.*" In direct opposition to the Opinion of the Law Officers of the Crown, Lord Bathurst now appears as the advocate of the claims of the High Church party to the whole of the Reserves; and that, too, in the face of the fact that he had himself some years previously, suggested that, in pursuance of that legal opinion, the Church of Scotland should be permitted to participate in the benefits of these lands. But it had been determined to resort to another expedient to silence the clamours of the Church of Scotland; and this very sale to the Canada Company was intended to furnish the means. In pursuance of this plan instructions were issued by the treasury department to the Provincial Executive to pay out of the funds derived from the Canada Company £750 a year, for the salaries of Presbyterian Ministers, and a like sum for the support of Roman Catholic Priests. The distribution of the money granted to the Roman Catholics was confided to Bishop McDonnell, who was invested with discretionary power to appropriate one-fourth of the annual grant to the support of schools. "With respect to the Roman Catholic Priests," says Lord Bathurst, in a despatch to Sir P. Maitland, dated October 6, 1826, "who are to receive an allowance from Government, they will be recommended to you by Bishop McDonnell, "*who will be responsible for their good conduct.*" The Bishop, it seems, had stipulated to assume this responsibility for the political conduct of the stipendiary priests. Nor did he fail in his engagements, albeit he was guilty of peculations on the grant; and he attempted to cover his pecuniary frauds by resorting to others of even greater atrocity. He compelled priests to give him receipts for money they never received. To schoolmasters he promised money which he never paid. The best understanding existed between him and Sir J. Colborne.* He desecrated the altar in the service of the High Tory Government, and induced his congregation to sign petitions against prominent members of the liberal party, under the mendacious assurance that the sole object of the petitions was the advancement of the Catholic Church. "His sermons invariably presented a strange and incoherent medley of politics and Christianity."* For sermons, he sometimes substituted violent tirades against individual members of the Opposition. He gave orders to eject the Rev. Mr. Chever from his living at Sandwich for having given his influence to the liberal party, instead of supporting Mr. Baby, a prominent member of the Family Compact. He gave instructions to his agent that should any of Mr. Chever's congregation prove refractory, they were to be "dealt with as rebellious and schismatic." He threatened to call to his aid the civil force to back his spiritual authority, if necessary. By the same means he determined to secure the political subordination of all the clergy under his charge. Thanking Dr. O'Grady for executing his command in reference to Mr. Chever, the Bishop says:—"The task we have undertaken is an arduous one, but we must go through with it." In this way it was that Bishop McDonnell exercised a political surveillance over the priests in his charge, when his allegiance was paid for by the Government of the day. This case strikingly illustrates the great political evils that may result from a systematic corruption of the Clergy by funds drawn from the coffers of the state.

The grant to the Presbyterian ministers was to be confined in its application to natural-born British subjects, in full communion with the Kirk of Scotland, by whom they were to be recommended to the patronage of the Governor. The Presbyterian ministers not in connexion with the Church of Scotland, seeing the success of their brethren, hastened to present their claim to an allowance out of the revenues payable by the Canada Company. The Imperial Government consented (August, 1830,) on this condition, that the whole Presbyterian Clergy in Upper Canada should form a Presbytery or Synod, by whom the ministers to receive stipends from the Government should be recommended in the same manner that the Catholic priests were recommended by Bishop McDonnell. It was by the employment of political

* Previous to Sir J. Colborne's arrival, the envious exclusiveness of the High Church faction in the Province prevented them from entering into the views of the Imperial Government in reference to the grant to the Roman Catholics. Bishop McDonnell, in a letter to Dr. O'Grady, says:—"I produced the positive orders that they [the priests and schoolmasters] should receive their salaries; yet Dr. Strachan and Justice Powell who, under the nominal administration of Col. Smith, Mr. Gore, and Sir Peregrine Maitland, actually governed the Province, till they quarrelled among themselves, resisted the payment of those salaries in defiance of His Lordship's orders for seven years, and obliged me to take two journies to Europe, at no small trouble and expense."

* Evidence of Dr. O'Grady, Roman Catholic Priest, before a Committee of the House of Assembly, in 1835.

arguments by this branch of the Presbyterians that they succeeded in extorting this money grant from the coffers of the state. It was their boast of preaching not the Gospel, but "loyalty to our King," that softened the heart of Mr. Secretary Murray to the prompt admission of their claim. But the misfortune was, that what passed current for loyalty in these days was a blind adherence to the ruling faction, whose vicious administration of public affairs was alienating the people's affections from the mother country, and sowing the seeds of future independence. A few years previously, the United Presbyterian ministers had been made the victims of a duplicity which, were it recorded on authority* at all open to doubt, would be received with universal discredit. In connexion with the Church of Scotland, they had petitioned the Imperial Government for pecuniary aid: by the Kirk Ministers the original petition was suppressed, and another substituted in its place, representing only the Church of Scotland. In a second petition, sent off before the answer to the first was received, the United Presbyterians assured the Imperial Government that their claims were higher than those of the Church of Scotland on the score of political services, their exertions "in promoting the loyalty of the people" having been greater, and the field of their operations more extensive. They also tried the effects of insinuating menace, declaring that a refusal to make them pensioners of state "would be to throw a "reproach on their labours, and to create unne- "cessary and invidious distinctions among His "Majesty's Presbyterian subjects, and such dis- "tinctions have, in any case, a most pernicious "tendency, especially in this Province." The answer to this petition having been in a great measure anticipated in the reply to the one that preceded it, its receipt was barely acknowledged by Lord Goderich, in 1831. Occasionally the Kirk ministers spoke in a strain still more menacing. The Rev. Mr. Leith, before the Canada Committee of the House of Commons, in 1828, distinctly pointed at insurrection as the consequence of excluding that church from a participation in the Reserves. He assured the House that the Canadian Government placed its chief reliance on the Scotch settlements; and added, "but, as the Scotch are "strongly attached to their National Church, no "course of policy could tend more effectually to "alienate their loyalty and lead to a revolt, than "a perseverance in the policy hitherto pursued "with respect to the Church Establishment."

Arguments of a like political cast were employed by the Rev. Mr. Alder, before a Committee of the House of Commons, in 1828, when he wished to make good the claim of the Wesleyan Methodists to a share of the Reserves. To the question, upon what principle would he exclude other Protestant Dissenters, Mr. Alder replied:— "We do not wish to exclude them, but we con- "ceive that we are placed in totally different circumstances from dissenters in Lower Canada, "*because the British Conference of the Wesley-* "*an Connexion is accountable to Government,* "and the public of Great Britain *for the good* "*behaviour of all their missionaries,* whereas "the ministers of the dissenting churches can "only give their own personal security for their "good behaviour: *we conceive that on that* "*ground our claim is much better than theirs.*" This argument finally had its effect. The Wesleyan Methodists afterwards received a small bribe from the State; in consideration of which some of the leaders in that denomination put forth all their political influence to assist Sir Francis Bond Head in destroying the freedom of election in 1836. The success of that detestable stratagem was one of the main causes that produced the abortive insurrection in the following year.

For the purpose of tracing directly the pernicious effects of a connexion between ministers of religion and the Executive Government, we have intentionally advanced beyond our general subject. We shall now return to the point whence we set out.

The proposed sale of a part of the Reserves to the Canada Company, and the allotment of other lands in lieu thereof was not a direct increase of the quantity of Reserves. But it was intended to have the same effect. If it had succeeded in silencing the clamours of the Church of Scotland, which it did not, and of securing the cheap allegiance of the Roman Catholic priests in Upper Canada; the High Church party might still have hoped to monopolize the whole of the Reserves, while the English Bishops would have increased their facilities of making their will obeyed in the Province.

In December, 1826, the third session of the Parliament elected in 1824, was holding: the house took up the reply of Lord Bathurst to their address of the previous session. They declared it unsatisfactory. The interpretation put upon the Constitutional Act by the High Church party, they pronounced contrary to the spirit and meaning of the statute. They repelled, almost unanimously,* the exclusive claims of the Episcopalians on the ground of their injustice; and scouted the idea of "a comparatively small pro- "portion of the inhabitants of Upper Canada," as the members of the Church of England were, having the sole enjoyment of the Reserves. It was resolved that the lands "ought to be dispo- "sed of, and the proceeds of their sale applied to "increase the Provincial allowance for the sup- "port and maintenance of district and common "schools and the endowment of a Provincial "seminary of learning, and in aid of erecting "places of worship for all denominations of "Christians." In January, 1827, a bill providing for the disposal of the Reserves for these purposes, passed the House by a majority of 19 to 7; but it was buried in that catacomb of all popular measures, the Legislative Council.

* The fact is related in a petition from the Presbytery to Sir George Murray, Secretary of State for the Colonies, dated Sept. 1, 1830.

* The resolutions were carried by a vote of 29 to 2.

In 1828, the House of Assembly, in an address to the Crown on the subject of King's College, which was carried by a majority of twenty-one to nine, stated it as "the general "desire of Her Majesty's subjects in this Pro- "vince that the moneys arising from the sale of "of any of the lands in this Province should be "entirely appropriated to purposes of education "and of internal improvement." To give them to one or two denominations the House held would be unjust; and they expressed a doubt of the practicability of dividing them among all.

The progress of opinion on the subject among the people is observable in the action of the House of Assembly. In its first session, the Parliament of 1824 so far asserted the principle of religious equality as to pronounce in favour of an equal division of the proceeds among all denominations. Next session it resolved that if such distribution should be deemed inexpedient, they should be applied to education and public improvements.—In the third session, the House took another step in advance; and in 1828, it adopted unconditionally, the principle that the whole proceeds of the lands should be applied to specified secular purposes.

The action of the house was fully sustained by the people, who, at the general election of 1828, returned a large majority of liberal members.

Meanwhile the projected sale of one half of the Clergy Reserves to the Canada Company had fallen through. The Company received a free gift of about two hundred and seventy thousand acres of Crown lands * in consideration of their giving up the Clergy Reserves! The determination to sell that portion of the Reserves, of which the Imperial Parliament had authorised the alienation had not been abandoned. In Nov. 1827, Mr. Huskisson, who had succeeded Lord Bathurst in the colonial office, communicated to Lieutenant Governor Maitland instructions to proceed with the sales. Those lands which formed the most serious obstacle to the settlement of the country were first to be disposed of; the selection being left to the Executive Council. That these Reserves had opposed formidable obstacles to the settlement of the country was now fully admitted; and the great object of the alienation, as declared by the Colonial Secretary, was "to relieve the "inhabitants from the difficulties which they "have experienced in consequence of the wild "lands reserved for the Clergy remaining in an "unimproved state in the immediate vicinity of "improved tracts." To that object all consideration as to price were if necessary to be sacrificed. Since the bargain with the Canada Company for a portion of the Reserves had been broken up, the alienation now authorized was not made with a view of substituting other lands. The recommendation of Sir P. Maitland's Government drawn up by Dr. Strachan in 1824, to reserve from sale in each township a quantity of land sufficient to endow three or four Parsonages was not to be wholly overlooked by a High Tory Government. Accordingly the Provincial Executive was instructed to reserve from sale in each township three or four hundred acres as a Glebe for the future use of a Clergyman: another link in the chain of evidence which clearly establishes a settled determination, which had then existed for more than half a century, to invest the Church of England, in this Province with the exclusive attributes of a State Church.

* Letters on the Canada Company.

CHAPTER V.

A crooked Advocate—Maitland invokes Imperial Legislation on the Church question—Dr. Strachan's Ecclesiastical chart; its falsehood, and its corrective.

The appointment of a new Colonial Secretary, Mr. Huskisson, afforded Governor Maitland an opportunity of arguing the case of the High Church party; a self-imposed task which he performed with the zeal of a partisan and temper of a bigot. Blinded by the prejudices of early education, and surrounded by irresponsible counsellors, whose narrow and selfish ambition aimed to subjugate a people's will to their own aggrandizement, Sir P. Maitland could see in the manly expressions of the popular will nothing but the senseless clamours of the mob and the idiotic ravings of a few unreasonable politicians. He expressed the bitterest mortification at being called on to witness such a spectacle; and he announced to his superiors that his feelings were shared by the "well disposed and reflecting people of "the colony." He ridiculed the idea of treating as a grievance the devotion of the seventh of all the granted lands to the maintenance of an army of Episcopalian Clergy. His great argument, and that of the Legislative Council for nearly twenty years, was that "for thirty years no one ever heard "or thought that the teachers of any religious "sect, dissenting from the Established Church, "claimed a right to participate in the Reserves." This assumption, were it indisputable, which it is not, would not be of the slightest importance. We could not accept the absence of a claim on the part of other denominations to share in the Reserves, *when there was no revenue to divide*, as proof of a tacit acquiesence in the claims of the High Church party. To ask to share in proceeds which were wholly imaginary, would have argued a want of common discernment. Notwithstanding the length of time that elapsed before the exclusive claim of the Episcopalians was contested, the Church of Scotland was premature in her demands. For years after she first urged her claims on the Government the Reserves did not yield more, and often less, than the clerical corporations found it convenient to absorb in the management. But no such claim could ever be put forward by a majority of the people; simply because they desired the Reserves to be wholly diverted from sectarian purposes. Maitland urged the new Colonial Secretary to permit no departure

from the decision of the law officers of the Crown. This recommendation manifested a strange contradiction. The Governor appeared at once as the advocate of the right of the Episcopalians to all the Reserves and the supporter of a legal decision which admitted the claim of the Church of Scotland to a share. Of the Church of England he spoke as the "existing establishment," and the "national Church." He expressed a hope that the question of a Church establishment in these colonies might be set at rest by the Imperial Parliament; assuming that the English bishops would be able to sustain the claim of the Episcopal Church to the whole of the lands. For a time the Imperial Government listened to this suggestion, and spoke of an alteration by the Imperial Parliament of these provisions of the Constitutional Act which related to the Reserves as a possible contingency.

In 1827 Dr. Strachan made a second journey to England, carrying with him a second Ecclesiastical chart of the Province, which, with an accompanying letter he laid before the hon. R. J. Wilmot Horton, under Secretary of State. The letter was remarkable for the same features—gross misrepresentations and unfounded insinuations—that marked the two documents drawn by the same hand, and intended to serve the same purpose of deception, in the years 1823 and 1824. It represented that the greatest anxiety existed on the part of the population to avail of the settled ministration of the Episcopal Clergy; that every minister, if of mild and conciliatory disposition, was sure to find the respectable part of the inhabitants among his congregation; that there were already one hundred and fifty townships where as many clergymen could be usefully employed, and that in less than a dozen years double that number would be requisite. He contrasted unfavorably other denominations with the Church of England; and, with a view to political effect put forth statements, as groundless as they were ungenerous.

"The teachers," he says, "of the different denominations, with the exception of the two ministers of the Church of Scotland, four Congregationalists, and a respectable English Missionary who presides over a Wesleyan Methodist meeting at Kingston, *are for the most part from the United States, where they gather their knowledge and form their sentiments.* Indeed the Methodist teachers are subject to the order of the Conference of the United States of America; and it is manifest that the Colonial Government neither has nor can have any other control over them, or *prevent them from gradually rendering a large portion of the population, by their influence and instructions, hostile to our institutions, both Civil and Religious, than by increasing the number of the Established Clergy.*"

He presented the reverse of the picture, in such colors as were calculated to captivate the high Church nobleman who held the seals of the Colonial office:—

"Two or three hundred clergymen," he went on to remark, "living in Upper Canada, in the midst of their congregations, and receiving the greater portion of their increase from funds deposited in this country (England), must attach still more intimately the population of the Colony to the Parent State. Their influence would gradually spread; they would infuse into the inhabitants a tone and feeling entirely English, and *acquiring by degrees the direction of education, which the Clergy of England have always possessed*, the very first feelings, sentiments and opinions of the youth must become British."

This appeal like all that had preceded it, held out to the Imperial Government the assumed *political* advantages of a state Church. The deception was so far immediately successful that Dr. Strachan secured a Royal Charter for an University, framed on the narrowest principles of high Church economy. The odious intolerance of this exclusive charter gave rise to a general dissatisfaction with the Institution, which, after a quarter of a century of public complaint, has been divested of its more repulsive features.

The falsity of the allegations contained in Dr. Strachan's letter was fully established by the Upper Canada House of Assembly; who, in 1828, passed an address to the King, praying for the cancelling of the exclusive charter obtained by the most fraudulent misrepresentations, and the substitution of one unobnoxious to the objection of being capable of benefitting only a small portion of the population. The address contained the following refutation of the false and slanderous statements and insinuations above quoted from Dr. Strachan's letter:

"We beg leave to inform Your Majesty that of Your Majesty's subjects in this Province, only a small proportion are members of the Church of England; and there is not any peculiar tendency to that church among the people, and that nothing could cause more alarm and grief in their minds, than the apprehension that there was a design on the part of your Majesty's Government, to establish, as a part of the state, one or more church or denominations of Christians in this Province, with rights and endowments, not granted to Your Majesty's subjects in general, of other denominations who are equally conscientious and deserving, and equally loyal and attached to Your Majesty's Royal Person and Government. In following honestly the dictates of their conscience, as regards the great and important subject of religion, the latter have never been conscious that they have violated any law or any obligation of a good subject, or done any thing to forfeit Your Majesty's favor and protection, or to exclude themselves from a participation in the rights and privileges enjoyed by Your Majesty's other subjects.

"We humbly beg leave to assure your Majesty that the insinuations in the letter against the Methodist Preachers in this Province do much injustice to a body of pious and deserving men, who justly enjoy the confidence, and are the spiritual instructors of a large portion of Your Majesty's subjects in this Province. We are convinced that the tendency of their influence and instruction is not hostile to our institutions, but on the contrary is eminently favorable to religion and morality; and their labours are calculated to make them better men and better subjects; and have already produced, in this Province, the happiest effects."

The ecclesiastical chart was equally false and deceptive in its statistics and its studied omissions. To it also a corrective was applied by the House of Assembly. Dr. Strachan's chart gave the

number of Episcopalian ministers at 39, and one under consideration, their places of worship where regular or occasional services were held at 58, and the Churches at 44, of which 10 were in course of building. The Assembly's corrective chart gave the number of episcopalian ministers at 31, their churches 38, and the places of worship where occasional service was held at 30. The Episcopalian chart gave the Kirk of Scotland 2 ministers, 2 vacancies and 4 Churches. The Assembly's chart gave them 6 ministers, but of churches it contained no return. The Episcopalian chart gave the Methodists six preachers, while the actual number was 117; and while it named no places of worship they had 623 where regular, and 130 where occasional service was had. The Baptists who had 45 ministers, the Presbyterians, not in connection with the Church of Scotland, who had 16, the Menonists and Tunkers who had 20, as well as the Lutherans, Quakers and Roman Catholics, were all ignored in this famous ecclesiastical chart * of Episcopalian manufacture. Of the Episcopalian ministers one third had been educated without the British dominions; of the Methodists 89; of the Baptists 28; of the Presbyterians 11; of the Kirk of Scotland 4. The Episcopalian ministers were indeed all naturalized; which was not the case with some others: belonging to the methodists there were 29, to the Baptists 4, to the Kirk of Scotland 1, and to the Menonists and Tunkers 13 ministers who were not naturalized. Of hearers or members there are no returns from the different denominations; but of the whole population the Church of England comprised but a small proportion.

A petition signed by 8,000 persons was sent to England to disprove the misstatements with which Dr. Strachan had succeeded in deceiving the Imperial government; it prayed for an alteration of the University charter, obtained by frauds of which the petitioners were so many witnesses, and the appropriation of the Clergy Reserves to secular education and public improvements. The subject of the chart came up before the Canada Committee of the House of Commons in 1828; when the misstatements of Dr. Strachan were again abundantly refuted; whether they had reference to the alleged numerical superiority and general prospects of the Church of England, or to the insignificance of other denominations and the political disaffection of their ministers. The promulgation of Dr. Strachan's ecclesiastical chart marks the period of the first mingling of religious questions with political discussions in Canada †. On the discovery of the fraud the public excitement was intense; it had never ran so high but in the single instance of the atrocious alien bill. When the Episcopalians discovered a dispositron to enforce their monopolizing claims by stratagem and fraud, all other denominations united in defence of those common rights which had been assailed.

* The Episcopalian method of computation for their own church is this:—Discover the number of communicants; multiply that number by six and you have the congregation; and that multiplied again by two will give you the number of adverts of the church. *Evidence, Rev. Crosbie Morgell* before Canada Committee.

† Rev. George Ryerson's evidence before the Canada Committee.

CHAPTER VI.

A new Governor; his views on the question—More collision between the two Houses—The Assembly dismisses its Chaplain—The Imperial Government determines to abandon the Reserves and recommends the vesting of them in the Crown absolutely discharged of all trusts—How the avowed wish of the Imperial Government was defeated—The charge of bad faith investigated—Why the secularization scheme failed in Lower Canada—The vested Rights illusion dispelled—Position of the question in 1831 and in 1851 compared.

Sir John Colborne succeeded Sir P. Maitland as Lieut. Governor of Upper Canada in 1828. The first action he took on the clergy reserves was to recommend a wholesale creation of glebes for the support of Episcopalian Ministers. He assured the Imperial Government that of the whole population of Upper Canada there were few individuals who objected to visit the nearest church whatever might be their creed; and that, in the woods, it was a frequent occurrence to meet with families who belonged to no church, and had scarcely ever heard of religion. He did not conceal the apathy and indifferent character of the Episcopalian Ministers; but frankly admitted that "if a "more ardent zeal be not shown by the estab- "lished Church, and a very different kind of "Ministers than that which is generally to be "found in this Province sent out from England, it "is obvious that the members of the established "church will soon be inconsiderable, and that "it will continue to lose ground." How truly has this prediction been fulfilled! He repeated those political arguments which had been so frequently addressed to the Imperial Government by the advocates of sects seeking pecuniary support from the State. He exaggerated the influence in the elections of the Methodist preachers of American origin, and proposed a scheme for supplanting them by the appointment of itinerant Episcopalian ministers; citing as proof that the proposed competition would be successful the, perhaps imaginary, case of three or four townships "where the clergymen are fit for this Province, the Methodists decrease." The demands of the Presbyterians he opposed, on the ground that their satisfaction would lead to a like claim from all other "dissenters." He suggested the adoption of a measure for placing the reserves at the absolute disposal of the Crown, the proceeds to be distributed for the support of a Protestant Clergy by the Imperial Government; the object being to place them beyond the control of the Provincial

Legislature; by the popular branch of which a desire had been so often expressed to devote them to secular objects of Provincial utility.

In the two sessions of 1829 and 1830 bills were passed unanimously by the Assembly to provide for the sale of part of the Reserves and to apply the proceeds to education. The bill of 1829 was sent up to the Legislative Council; where it was read a first time on the 9th March, and ordered to be read a second time in three months. The bill of 1830 was read a first time in the Council, and never again referred to. In 1830, Mr. Mackenzie introduced into the Assembly resolutions, disapproving of the appointment by the Executive Government of a Church of England Chaplain, without consulting the wishes of the House on the subject. In amendment to one of these resolutions Mr. Dalton moved "That the "House consider it an imperative duty to mark "their strong disapprobation of the advice which "dictated to His Excellency the Lieutenant "Governor to appoint them a chaplain without "previous reference to them for an expression of "their feelings on the subject, and that the said "appointment appears to be *in furtherance of "an exclusive policy so universally and justly "decried;*" which was adopted unanimously. Another resolution was passed by a vote of 28 against 3, "that the House deem it inexpedient "to receive as their chaplain any one appointed "by the Executive Government." It was also resolved that the ministers of the different Christian congregations in the town should be requested to say prayers in the House for the term of the existing Parliament, under such arrangements as might be made by the Speaker. The rule requiring the business of the House to commence with prayer was rescinded, and an address to the Lieutenant Governor adopted praying that the Chaplain might be dismissed and no other, in future, be appointed. The address was transmitted to Lord Goderich, who, on the part of the Imperial Government, acquiesced so far as to promise that in the event of the chaplaincy becoming vacant, no new appointment should be made to the office; but expressing a hope that the existing chaplain might be allowed to receive his income for life. The prayers he deemed unimportant, if the cash they brought should continue to be paid. Since then the House has had no Chaplain.

In 1831, the Assembly, despairing of obtaining the assent of the Legislative Council to any measures it might pass for the secularization of the Reserves, first referred the question to the Imperial Government for settlement. An address was adopted praying that His Majesty would recommend to the Imperial Parliament to pass an Act for authorizing the sale of the Reserves and enabling the Provincial Legislature to appropriate the proceeds to the advancement of Education. About a month previous to the adoption of this address, the Imperial Government had resolved upon the abandonment of the Reserves; in a manner and for reasons with which the reader will soon be acquainted.

The proceeds accruing from the sales of Clergy Reserves were (April 1831) directed to be paid over to the Commissary General for investment in British funds. The first sum so paid was in 1831; amounting to £8000, Cy. The Lieutenant Governors of each Province drew bills o: the Treasury Department, on account of divi'ends from the Stock so invested in three per cent. consolidated annuities.

The committee of the House of Commons appointed, in 1828, to enquire into the civil government of Canada reported against continuing the reservation in Mortmain of the lands for the support of a Protestant Clergy; chiefly on the ground that they imposed serious obstacles to the improvement of the Colony. It was in deference to this recommendation, rather than to the frequently expressed desires of the Upper Canada House of Assembly and the petitions of the Canadian people, that the Imperial Government, in 1831, recommended that the Clergy Reserves should be caused to revert to the general desmene of the Crown. In the previous year another petition, signed by 10,000 persons, had been sent home, praying that the proceeds of the sales might be applied to the promotion of General Education and Public improvements; and for a general equality of rights and privileges among all denominations. So far as Lower Canada was concerned, the recommendation of the Imperial Government proceeded entirely upon the action of the Committee of the House of Commons; for in that Province there had been no agitation against the Reserves except upon the ground that they interposed obstacles to the settlement of the country. The agitation on the subject which, in Upper Canada, had long shaken civil society to its base was not wholly left out of account by the Imperial Government when it resolved upon recommending the sweeping away of every vestige of those hitherto unproductive reservations. Accordingly we find Lord Goderich, (Nov. 1831,) then Secretary of State for the Colonies, declaring his unhesitating concurrence with the Assembly that the Reserves "form a great obstacle to the improvement and "settlement of the Province without being pro-"ductive of any corresponding advantage." Forty years had now elapsed since the making of Reserves had commenced; and they had not yielded an income equal to the expense of their management. That this was owing in part to the improvidence of the Clergy Corporations the evidence before the Canada Committee leaves no room to doubt. From 1822 to 1833, the receipts had not exceeded £200 a year; and of this not a farthing remained after defraying the expenses of the Clergy Corporation. The rents fell in arrear; tenants absconded; and there was no immediate prospect of the estate becoming productive. From the examplo of Australia as well as of Canada, Lord Goderich concluded "that land in "countries where so much remains unappropria-"ted can only be profitably occupied by those "who have the stimulus of personal and perma-"nent interest." For these reasons his Lordship

(Nov. 21, 1831,) recommended the abandonment of the Reserves. We quote his official despatch:

"Under these circumstances I cannot entertain a doubt that an end should immediately be put to the system of reserving a seventh of the waste lands in Canada for the support of a Protestant clergy; that which would be an objectionable mode of raising a revenue for any public purpose is still more strongly to be condemned as a provision for the ministers of religion, since it must have a direct tendency to render odious to the inhabitants those to whom their good-will and affection are so peculiarly needful."

"Such are the considerations by which His Majesty's Government have been influenced in coming to the conclusion that the retention of the Clergy Reserves in their present state is inexpedient. It is scarcely necessary to protest against this conclusion being construed into an acquiescence in the opinion expressed in a petition upon this subject, signed by a considerable number of the inhabitants of the province, "that any kind of Church establishment, circumstanced as Upper Canada is, is essentially antichristian and baneful to every interest of humanity." I am convinced that this is a sentiment which the great majority of those by whom the petition was signed would not seriously mean to adopt, and that in their eagerness to get rid of a practical grievance, they have incautiously sanctioned speculative opinions, which I have no doubt that upon mature reflection they would disavow. Believing this to be case, I decline to enter into any argument for the purpose of refuting an assertion, the justice of which I so entirely deny. *It is sufficient to repeat that His Majesty's Government have advised the abandonment of the Reserves, for the simple reason, that after an experience of forty years they have been found not to answer the expectations entertained at the time the system was established, but have entailed a heavy burden upon the province without producing any corresponding advantage.*"

In another despatch of the same date, Lord Goderich unfolding, in detail, his scheme for the abrogation of the Reserves, gives instructions for the repeal by the Upper Canada Legislature of those clauses of the Constitutional Act which relate to the allotment and appropriation of lands for the support of a protestant Clergy. To preclude the discussion of embarrasing questions to which a simple repeal of the provisions might give rise, Lord Goderich gave a summary of the provisions which the proposed Act should contain. They were:

"First, then, it should be enacted, that so much of the British statute of 1791 as relates to the appropriation of Clergy Reserves should be repealed. But as it is unnecessary, and would be highly inconvenient, to repeal so much of that Act as relates to the erection and endowment of parsonages, it will be fit, in order to obviate the possibility of mistake, that the precise words, upon which alone the repeal is to operate, should be quoted in the repealing Act.

"Secondly, *to remove all doubts as to the effect of the repeal, it should be expressly provided that the reserved lands should immediately vest in his Majesty, and be held by him, his heirs, and successors, in the same manner in every respect as if the provisions to be repealed had never been enacted.*

"Thirdly, the leases granted by the Clergy Corporation should be declared to be valid as though the repealing Act had not been passed, but the tenants should be required to attorn to His Majesty, and to pay their rents to him, or to the receivers of his land revenue in the province.

"Fourthly, all sales effected, and all Acts done under the statute 7 & 8 Geo. 4, c. 62, should be declared as valid as though the repealing Act had not been passed.

"Fifthly, the only additional provision, the necessity of which I can anticipate, would be an enactment, declaring that henceforward no grant of lands, wherever made, shall be deemed invalid or ineffectual, by reason of the absence of a specification of the Clergy Reserves appropriated in respect of such grant. With reference to future grants, this, of course, would be superfluous; but it might obviate some inconvenient doubts as to the effect in future of past neglects of this part of the Act of 1791."

A draft of a bill embodying these provisions was also transmitted by Lord Goderich to Sir John Colborne, with instructions that it should be introduced into the Assembly by the Attorney General. These instructions were complied with, but in such a way as to defeat the very object of which Lord Goderich professed to desire the accomplishment. On the 25th of January 1832, Sir John Colborne, conveyed to both Houses of Parliament by Message, of which he had received a draft from the Colonial office, His Majesty's invitation "to consider how the powers given to "the Provincial Legislature by the Constitutional "Act, to vary or repeal its provisions, can be "called into exercise most advantageously for "the spiritual and temporal interests of His "Majesty's faithful subjects in this Province." On the same day Attorney General Boulton, seconded by Mr. Wilson of Wentworth, introduced into the Legislative Assembly a bill "copied "as nearly as possible" from the draft prepared under the directions of Lord Goderich. The Attorney General moved that the bill be read a second time to-morrow; to which the House, having first ordered five hundred copies to be printed, agreed on a vote of twenty-nine against seven. In this proceeding Sir John Colborne professed to discover a desire on the part of the Assembly not to proceed with the bill till the next Session; but he took effectual measures to render its passage impossible by a premature prorogation, three days after its introduction. Such a proceeding on the part of the Lieutenant Governor can only be characterized as a wanton trifling with the highest interests of the Province; and the self-attempted palliation of his conduct proceeds on grounds wholly inadmissible. If to read the bill a first time without notice; to order it to be printed; and, by a majority of twenty two, to fix the second reading for the very next day, show an indisposition on the part of the House to proceed with the measure, then has Sir John Colborne made out a case for the abrupt dismissal of Parliament; but if they show the very opposite of this, then must he be held guilty of attempting to cover an ulterior object by a representation unfounded in fact; either deceiving the Colonial Secretary or else colluding with that functionary to delude the Canadian public.

The delay thus obtained afforded the High

Church party an opportunity to get up petitions to the Imperial Government against the proposed mode of settlement. They were clandestinely circulated through the medium of the Clergy Corporation. To meet the stereotyped calumnies which, by this means, were again presented to the Imperial Government as unquestionable facts, a counter petition was put in circulation and in two months it received no less than 20,000 signatures. To convey it to the Imperial Government a special agent was appointed.

We are not prepared to say that it was a captious temper or cynical disposition of the public mind that caused the good faith of the Imperial Government to be questioned in its apparent desire, on this occasion, to defer to the wishes of the Canadian people. When Lord Goderich and his colleagues invited the Canadian Legislature to pass a bill for reinvesting the lands in the Crown, absolutely, discharged of all trusts whatever, they were not ignorant that all agreement on the subject between the two houses had hitherto been impossible. * This had been shown not on one or two occasions merely; but every time the question had been before the Legislature since 1824. The Imperial Government had itself, on the advice of the Governors and their irresponsible counsellors, filled the Legislative Council chiefly with placemen. A year or two before, evidence had been presented to them showing that it contained five members of the Executive Council, comprising the hon. William Campbell, Chief Justice, the Speaker, the Bishop of Quebec, the Hon. James Baby, Inspector General, Dr. Strachan and the Hon. George Markland; and that seven other members of the Council held offices of emolument under the Government. That a majority of them was avowedly opposed to the mode of settlement proposed by the Imperial Government was abundantly notorious. There remained but five members who were not connected in any way with the Government. The Imperial Cabinet might indeed be presumed to have some control over the twelve placemen in the Legislative Council; and it is true that they formed a majority; for at that time the Council consisted of but seventeen members. But it was not a reasonable supposition that the Bishop of Quebec, Dr. Strachan, and other leaders of the high Church party could readily be brought to support a measure to the principle of which they had for years offered a strenuous opposition. Of the seven members not in the Government but in its pay two were pensioners who could not be deprived of their emoluments for opposing the bill. † Under these circumstances the Imperial Government should have made the remodelling of the Legislative Council the first step in the carrying out of the policy which it recommended to the Canadian Legislatures. The question of re-constructing the Council was doubtless surrounded with difficulties. The Crown did not possess the absolute right of appointment; it could exercise that right only on the advice of the Governor; and as that functionary was surrounded by counsellors who were opposed to the procedure proposed with respect to the Reserves, they were not likely to advise the appointment to the Legislative Council of men hostile to their own views, and calculated in such a position to endanger their oligarchical ascendency. But there were no difficulties that the Crown could not have overcome. The Governor could have been instructed to dismiss his counsellors, who could never command a majority in the popular branch of the Legislature; and a re-construction of the Legislative Council might have followed. By these means harmony between the two branches of the Legislature would have been insured; and the Executive Government obtained the confidence of the Commons House of Assembly. It is easy to conceive the dilemma in which the high Church placeman in the Council would have found themselves had the bill reached that House. When the question of going into Committee on Sir John Colborne's Message came up in the Council it was ordered to be discharged, and to stand on the order of the day for the next day; but it was never taken up.

On receiving intelligence of Sir John Colborne's premature prorogation of Parliament and the delay of the bill, Lord Goderich withdrew his instructions respecting the stoppage of the sale of the Reserves; and authorized the Governor to sell such quantity as he should deem proper.

In the next Session, held in November 1832, the Attorney General again moved to introduce the bill. Mr. Perry moved in amendment that so much of the order of the day as related to the bill be discharged; which was negatived on a vote of 11 against 17: the question for introducing the bill was carried in the affirmative on the same division. Mr. Perry had already introduced a bill for the disposal of the Reserves; a circumstance which explains his opposition to the ministerial measure. Neither bill proceeded beyond its first stage. The Government measure was never brought up again. Had it been a valid excuse for delaying the measure in the previous Session that its introduction unavoidably came too late; no such reason could be urged now; and yet the bill was never pushed beyond a first reading. Whether the Imperial Government acted in good faith, or merely with a view of inducing a belief in His Majesty's "great anxiety to attend to all questions which appear to "affect the prosperity and well-being of the Province," as Lord Goderich expressed it; all the evidence goes to prove that the Canadian oligarchy wished to defeat a measure which the Imperial authorities had recommended and of which the great majority of the people anxiously desired the success.

* I am convinced no measure will ever be concurred in by the Legislative Council and the House of Assembly that can lead to a satisfactory disposition of the proceeds of the lands.—*Sir J. Colborne's* official despatch, May 1835.

† In 1833, the Crown officers of Upper Canada were dismissed for opposing the Canadian policy of the Imperial Government.

In the Legislature of Lower Canada, the same bill was introduced by the Attorney General of that Province; and its failure is ascribed to some expressions used by Solicitor General Ogden, to the effect that the Imperial Government would reject it, if altered in a single word from the draft prepared in the Colonial office. This menace, which the Imperial Government afterwards disclaimed, was regarded by the House as an unwarrantable dictation and interference with its privileges. The measure was never afterwards revived. In 1835, the Earl of Aberdeen, then Colonial Secretary, alluding to the previous action of the Imperial Government on the question claimed that they were "completely absolved "from the responsibility thrown on them by the "Canada Committee." Again, at this period, the Imperial Government invited the Legislature of Lower Canada, to re-consider the question; having disavowed the interpretation of their intentions by Mr. Solicitor General Ogden. But, for some reason or other, the question was never again brought before the Legislature of that Province.

If any degree of State Church temerity could excite surprise it would be that wretched pretence of a vested right in the Reserves which for twenty years has survived this abandonment by the Imperial Government of the lands. And that surprise would be heightened by the recollection that this abandonment was proposed not by radical but by High Church officials. Lord Goderich while recommending an irreversable diversion of these lands from their original purpose, was ostentatiously proclaiming his belief in the assumed advantages of a Church Establishment, and dwelling pathetically on the presumed inconvenience of rendering illegal the creation of Rectories. This friend of Church establishments; this stickler for Rectories without the means of present endowment, so far from countenancing the untenable assumption that vested rights exist in the protestant Church lands treats,their abandonment as a simple question of expediency. That they had not answered the original purpose of their reservation was with him a sufficient reason for reinvesting them in the Crown, discharged of all trusts for a Protestant Clergy. That any right would be violated; that any individual or sect would suffer a wrong, or have a right to complain that this course was pursued, he never for a moment admitted; advocate as he was of Church establishments, and ready defender of the principle when assailed. If in the Clergy Reserves there had been a vested right would the Imperial Government, holding the principles of Lord Goderich, have invited the Legislatures of Upper and Lower Canada to confiscate, in a time of profound peace, and without any condition, 2,395,600 acres of land? The bare supposition is monstrous. The truth is, those who contend for the existence of a vested right in these lands, do so in opposition to the Constitutional Act and the views of the Imperial Government promulgated twenty years ago; while by implication they treat Lord Goderich and his colleagues as premeditated plunderers of the Protestant Churches in Canada, and William IV. as their guilty accomplice.

It is not a very encouraging reflection that the question is now in a worse position than it was twenty years ago. In 1831, the Legislatures of Upper and Lower Canada were "invited" to pass bills for reinvesting the lands in the Crown, discharged of all trusts. In 1851, we have the promise of the Colonial Secretary that the Imperial Government will, at its next session, recommend to Parliament a bill to authorize the Canadian Legislature to deal with the question as it shall see fit, under a particular restriction first named by the latter authority; or in other words, the right which we actually possessed in 1831, may again be in our possession in 1852 or 1853. How the question came to be thus embarrassed may be more fitly discussed when the proceedings of the present Parliament come under review.

CHAPTER VII.

System of private correspondence between the Upper Canada Governors and the Colonial office—Lord Goderich buys and sells the outside denominations with funds from the Territorial Revenue, that he might keep the Reserves Revenue for the Church of England—The Presbyterians, like Oliver Twist, asking for more.

Between the Colonial Secretary and the Lieutenant Governor a system of private and confidential correspondence was carried on, developing the real objects and intentions of the parties in reference to the question of a dominant Church, while co-temporaneously there existed the regular official system of public despatches displaying such diplomacy as might best appease the discontents of the Province by deceiving the people as to the real state of the question. On the very same day that Lord Goderich wrote (Nov. 21, 1831) two public despatches detailing a scheme for the surrender of the Reserves to secular purposes, he wrote a third despatch* authorizing Sir J. Colborne to apply, in the year 1832, £6000 towards the maintenance of the Bishop and other Ministers of the Church of England in Upper Canada. Of this sum £1500 was to be paid to the Bishop; nearly £1000 to the two Archdeacons of Kingston and York, and £3,500 to certain Episcopalian Ministers who took the name of Missionaries, for the purpose of making good their claim to share the bounty of the Society for the propagation of the Gospel in Foreign parts. Colborne appears to have carried the system of private correspondence to a greater extent than any of either his predecessors or successors. To Lord Goderich, Mr. Stanley, and Spring Rice he successively addressed this species of communication. But the mere inscribing on offi-

* This despatch is not among the Clergy Reserves papers published by the House of Commons in 1840.

cial communications of the words "private and confidential" cannot invest them with the sacred and inviolable character attaching to communications which in addition to being so marked are in their nature private and confidential. The House of Commons acted on this view of the matter, in ordering the publication along with the regular official correspondence of some, though not the whole, of Sir John Colborne's "private and confidential" letters to the different gentlemen, who, during his official term in Upper Canada, held the seals of the Colonial office. What remains behind it is of course impossible to conjecture; although it would be difficult to imagine on what principle a portion of this private official correspondence is withheld while another portion is published. In a private letter of the 24th of Feb., 1832, Sir John Colborne communicated to Lord Goderich the condition of the Clergy Reserve Fund; and recommended the application of a portion thereof to the building of parsonages or rectories and churches. He also developed a scheme for the establishment and endowment of rectories in every Township or Parish. The amount arising from the Clergy Reserves in that year was £4800; consisting of interest on instalments payable, the rents of the lands and the dividends from the funds invested in British Stocks. Lord Goderich, in reply to Sir J. Colborne's private despatch of Feb., expressed a qualified concurrence (in a communication* dated April 5, 1832) in the daring project, which had been secretly communicated to him. We quote the material portion of his reply:

"A question therefore naturally arises as to the most advantageous mode of disposing of the £4000 to be taken out of the Casual and Territorial Revenue, which had been destined to this particular service, and which will no longer be required for that purpose. I have considered with great attention the observations contained in your *private letter* † of February 16th, and the propositions which result from them; and I am happy to find that your practical views, founded upon personal knowledge and experience, are so coincident with those which upon a more speculative view I had been led to entertain. *I quite concur with you in thinking that the greatest benefit to the Church of England would be derived from applying a portion at least of the Funds under the control of the Executive Government in the building of Rectories and Churches, and I would add, in preparing, as far as may be, for profitable occupation, that moderate portion of land which you propose to assign in each Township or Parish for increasing the future comfort, if not the complete maintenance, of the Rectors.* With this view, it appears to me that it would be most desirable to make a beginning in this salutary work, by assigning to it a *portion* at least of the £4000 to which I have before alluded, as being no longer required, (during the present year at all events) for the payment of Clerical salaries. I say a portion of this sum, because I am led to think that it would be *expedient, with a view to prevent jealousy and attempts at interference with this Territorial Fund*, to permit some part of it to be disposed of *for religious objects generally*, without reference to the particular mode of belief which certain classes of the community may entertain. Some of it might for instance, be applied to Churches for the Presbyterian, some for Roman Catholic Chapels, and some for the Methodists—particularly that portion of them who may be in communion with the Wesleyan Methodists of this country. It is obviously impossible to think of aiding every subdivision of religionists, whose varieties are too indefinite to enumerate; and I feel that even with respect to those classes to which I have alluded, I cannot well undertake to prescribe to you from hence the exact proportion of assistance which it might be fit to grant to each. £4000 in the whole will be disposable; and I willingly leave it to your discretion to decide as to the proportionate distribution of that sum. I am well aware that in the execution of this duty you will have to steer a difficult course, and that it will require no small *tact* to determine by what practical means these important objects can be best attained; the diffusion of religious feeling and motives of conduct is the great point to be aimed at, and His Majesty's Government must naturally feel anxious that these should be as extensively as possible *in union with the Established Church of this country*; but it cannot be forgotten that the condition of society in such a country as Upper Canada presents difficulties in the pursuit of this object which are very serious, and that a state of religious peace is above all things essential in establishing in the minds of the people the efficacy of religious principles. Whilst therefore I admit, without reserve, my own extreme anxiety for the widest extension of the Church of England in Upper Canada, I feel it to be scarcely less important earnestly to urge the inexpediency of seeking to promote that great object by aiming at the exclusion or repression of other Churches.

"I communicate to you these sentiments on the part of the King's Government with an entire reliance upon your judgment and coincidence of views; and the present temper of the majority of the House of Assembly, together with the increasing prosperity and general tranquility of the Province, encourage me to entertain a sanguine hope that the present opportunity, if wisely and judiciously used, may lead to the most important and beneficial results."

A postscript is added which shows that the concurrence expressed, in the body of the despatch, is only in the general views of Sir J. Colborne; and is not to be taken as specific authority to distribute the £4,000: before that step was taken Lord Goderich claimed the right of considering any suggestions on the subject that Sir J. Colborne might have to offer. Accordingly, on the 5th September following the required suggestions were transmitted to Lord Goderich. The sum that would be available for distribution at the end of the year, on the estimate of Sir J. Colborne, was £4,600. He recommended that a sum of £3,500 which had been authorized to be paid to the clergy in lieu of the grant formerly voted by the Imperial Parliament, might be paid from this source; and, as the revenue from leases and sales would annually increase, that all the expenditure in preparing glebe lots for occupation, and in building parsonages or rectories might be

* This despatch was first published in Canada by Dr. Ryerson, by whom it was copied in the Colonial office, as *private*; but it is neither marked private nor confidential in the Clergy Reserve papers published by the House of Commons in 1840. Dr. Ryerson also erroneously dates this despatch April 6, 1833; the actual date being April 5, 1832.

† This letter has never been published.

defrayed therefrom. The discontinuance of the allowances previously granted by the Imperial Government to Episcopalian ministers in Canada, and making them chargeable on the proceeds of the church lands was strictly in accordance with the plan laid down by the Duke of Portland in 1796; and it proves anything rather than an intention to abandon the scheme contrived some forty years previously, for giving the Church of England a position of dominancy in this Province. Sir J. Colborne also recommended the payment of £100 a year to each of the thirty "missionaries" of the Church of England. He had already received from the Imperial Government instructions to take measures for securing 600 acres in each of certain townships for the support of Episcopalian Ministers. In these townships it was intended that the rectories and churches should be built. The lands were apparently intended as endowments to the proposed rectories. Nor was it deemed prudent to overlook the alleged political services of the Presbyterians, of whom the two bodies—those in connection with the Church of Scotland, and those who owned no such connection—had vied with one another in proclaiming the extent and value of this kind of service which each had rendered. While, therefore, Sir John Colborne recommended a subsidy of £900 to the Synod established by the Presbyterians in connection with the church of Scotland, Lord Goderich, in accordance with his avowed policy of resorting to expedients to prevent all attempts at interference with the Reserves fund, directed the payment of £700 to the Presbyterian Ministers not in connection with the Church of Scotland, to be applied in such a way as should meet the approval of Sir John Colborne. The Wesleyan Methodists, too, had so trimmed their course as to ensure the recognition of the claim they were anxious to enforce; and they therefore could no longer be overlooked. The Conference had resolved so to alter their disciplinary system as to make it agree in all its parts with British Methodism; to abolish Episcopacy; to place the whole of the Indian Missions under the exclusive direction of the Lower Canada Missionary Committee (which was under the control of the British Conference); to refuse, in future, to ordain to the ministry any one who continued to pursue a secular calling; that the British Conference should send to Canada such ministers as it should see fit to appoint; that Kingston, being the central station between the two Provinces, should be exclusively occupied by a Missionary from the British Conference; that the propriety of continuing camp meetings should be seriously considered; and that the *Christian Guardian* should in future be an exclusively religious journal. The Canada Conference appointed the Reverend Egerton Ryerson to proceed to England and arrange the details of the whole matter. * For this extensive surrender of the right of independent action Sir John Colborne considered the Wesleyan Methodists entitled to the pitiful sum of £900 a year; and Lord Goderich was but too glad to purchase, at such a price, their acquiescence in his schemes for agrandizing the Church of England. Sir J. Colborne had adduced as an argument for taking the Wesleyan Methodist Ministers into the pay of the State, that the influence of the British Conference would be exerted in promoting "confidence in His Majesty's Government." In fact, in every case in which a grant was made to any denomination, by the Government, the Imperial authorities were influenced by political motives; and in most cases exacted a pretty good guarantee for political services in return. The Reverend Egerton Ryerson, who was himself the agent in arranging the details of the scheme by which the Wesleyan Methodists became entitled to this grant, afterwards affected to condemn Lord Goderich for this scheme of Episcopalian agrandizement; which consisted in buying up the other denominations who were important enough to be worth the purchase. The censure came with a bad grace from this source; for a denomination which hand itself accepted a bribe from the State had no right to complain that it was outwitted by other denominations whose share in the transction was not marked by the turpitude of surrendering any principle which they ever professed to hold. Among his recommendations, Sir J. Colborne placed for the Roman Catholics a sum of £900, to be expended under the direction of Bishop McDonell, by such trustees as he might name, for the erection of Chapels. The Lords Commissioners of the Treasury, on the recommendation of Lord Goderich, sanctioned all the grants proposed by Sir J. Colborne including £600 a year to the Canada Methodist Conference which had, some years previously, separated from the Episcopal Methodists, and had sought to become participants in the grants doled out by the Government. The grants to the Presbyterians, the Roman Catholics, and the Methodists were directed to be paid out of the territorial revenue.

Lord Goderich's plan for aggrandizing the Church of England having succeded so far, he might with some appearance of truth—but with little beyond the appearance—turn round upon his accusers to repel the charge of showing undue preference to the Ministers of the Church of England; an advantage which he did not fail to take:

"With respect," he says, "to the charge of showing undue preference to the teachers of religion belonging to the established Church of this Country, it is so utterly at variance with the whole course of policy which it has been the object of my despatches to yourself [Sir J. Colborne] to prescribe that I cannot pause to repeal it in any formal manner. * * * His Majesty has studiously abstained from endowing literary or other corporations, until he should obtain the advice of the Representatives of the Canadian people for his guidance."†

* Rev. Mr. Alder's confidential communication to Sir John Colborne, August 27, 1832.

† The precise date of this despatch we are unable to give; as it does not appear in the Clergy Reserve papers published by the House of Commons in 1840. Dr. Ryerson in publishing it in the "Guardian" in 1839, dated it Nov. 8th, 1832, but we have so often found his dates erroneous that no reliance can be placed upon them.

Hitherto this despatch has been treated as one of the class of communications intended for the public eye; while that quoted above, of the date April 5, has been regarded as belonging to those intended to be private and confidential. We incline to regard both as public despatches. Nor do we think the actual difference between them so great as some have attempted to make appear. The small bribes thrown to the several Churches, and eagerly accepted, gave some sort of countenance to Lord Goderich's asservation of not having shown an undue preference to the Ministers of the Church of England; although there is no doubt of his intention to maintain such preference. That the King had not actually endowed any Rectors as corporations sole is also true; but that he intended to await the advice of the representatives of the Canadian people for his guidance in this respect, is totally at variance with the fact that 600 acres of land had been directed to be set apart in each of certain Towships for the support of Episcopalian Ministers.

A great point had been gained by the Episcopalians. Five other denominations by accepting grants out of the territorial revenue, over which the House of Assembly had at the time no control, had so far favored the scheme of Lord Goderich as to leave the Church of England in exclusive possession of the Reserves revenue, which every year was certain to augment. Besides, the recipient denominations were, by their own act, estopped from assailing the Episcopalians by the potent arguments of voluntaryism. Whatever blame may be attributable to Lord Goderich for the disreputable finessing to which he resorted; it is obvious that no tact or stratagem that he could employ could have availed unless the denominations to whose weaknesses he addressed himself had been willing to accept the proffered grants at the hand of the State. The boasted voluntaryism of the Wesleyan Conference surrendered on the first assault on its purity. It was not necessary that the Government should employ the seductive arts, on which Lord Goderich placed so high a value. Not only was this unnecessary, but Conference voluntarily made the most degrading surrender of its independence; in terms the most explicit, and for a sum utterly contemptible. Nor did the Conference of the Canadian Methodists exhibit more inflexible principles. They awaited not the invitation of the Government; but of their own free motion became supplicants for the bounty of the State. Of the other three denominations, two not being professed voluntaries, sacrificed no principle in accepting the grants. Sir John Colborne and Lord Goderich now flattered themselves that the success of their stratagem had secured to the Church of England the exclusive enjoyment of the Reserves revenue. Sir John Colborne correctly read in the directions of Lord Goderich to pay the little bribe-grants out of the territorial revenue an intention to sustain the monopoly claim of the Church of England. Early in 1843, he estimated the disposable revenue from the Reserves at £4,300, for that year. This sum he considered himself authorized by Lord Goderich's directions, of the previous year, to apply to the payment of the salaries of Episcopalian "missionaries," in building Rectories and Churches, and preparing Glebe lots for occupation. Nor was he long in receiving Lord Goderich's assurance that in this respect he had rightly construed that Nobleman's intention.

In a private communication (April 21, 1834) Sir John Colborne suggested to Mr. Secretary Stanley, who had succeeded Lord Goderich in the Colonial department, a doubt as to the right of appropriating the interest from the instalments paid by the purchasers of Clergy Reserves instead of remitting it with the proceeds of sales to be invested in British funds. To this doubt Mr. Spring Rice, who by this time (July 22, 1834) had became Colonial Secretary, replied by direction that the money should be devoted to the improvement of the unsold Reserves. These instructions were afterwards (February 22, 1835) set aside by the Earl of Aberdeen, who had taken the place of Mr. Spring Rice. He authorized the fund to be appropriated, as formerly, to the payment of the salaries of Church of England Missionaries; on the ground that the charges for grants to other denominations were likely to render too heavy the burthens on the crown revenue.

Lord Goderich's scheme of bribing the anti-voluntary or the apostate-voluntary sects from the territorial revenue did not long succeed in warding off attempts to interfere with the Church of England's temporary monopoly of the Reserves fund. Not long did the Presbyterian Synod in connection with the Church of Scotland remain satisfied with the sum doled out to them. On the 15th Jany., 1834, the commission of the Synod * assembled at York (now Toronto) adopted a memorial to Sir J. Colborne for an increase of the grant to that denomination. The grounds on which an augmentation of the grant was claimed were the increase since 1827, when it was first made, of Ministers from five to twenty-five, and their legal right to share in the Reserves revenue. At first, they received £750 a year; and the sum had subsequently been raised to £1000; which, divided among nineteen Ministers, (for six of the twenty-five got no portion of it), was insufficient to purchase their continued acquiesence in the monopoly scheme of the more favored Episcopalians. But not only did the Synod apply for immediate relief: it laid claim to "a permanent "and adequate provision for the Ministers of that "Church, as well as a fund for the support of "such Ministers as may in future be settled, ac- "cording to the wants of the Presbyterian popu- "lation." On the recommendation of Sir John Colborne, the Earl of Aberdeen directed an increase of the annual grant to the amount of £450, to be divided among the six hitherto non-recipient

* Present: Messrs. William Rintoul, Robert McGill, Alexander Ross, Peter McNaughton, M. Y. Stark, Alexander Gale, Peter Ferguson, Ministers, and the Hon. Archibald McLean, Elder.

Ministers, in equal sums of £75 a year. The amount, in pursuance of Lord Goderich's scheme, was directed to be paid out of the casual and territorial revenue. The increase was accompanied with the announcement that the Government reserved its right of revising the grant at any future time, should the circumstances of the Colony render such a proceeding advisable. This hint respecting the future good behaviour of the recipients was probably deemed necessary, in consequence of the usual assurances of political obediance not having accompanied their application on this occasion.

It is but too obvious that if the settlement of the Reserves question had rested with the priesthood, of the various denominations, the chance of secularization would have been exceedingly small. It would be useless to deny that the priests and ministers who were recipients of State pay belonged to, if they did not represent in sentiment, six denominations, who comprised the great bulk of the population of Upper Canada. But between the priesthood and the people there existed an irreconcilable antagonism. The Parliamentary representatives of Upper Canada always consistently advocated the devotion of the Reserves to education. In the Session of 1833-34 the Assembly passed (Feb. 1834) without a division, a bill for the sale of the Reserves for the purposes of education. It was sent up to the Legislative Council, where it was formally read a first time and then dropped. A similar bill passed on a vote of 39 against 7, the next Session, (March, 1835,) was also rejected by the Legislative Council. The action of this branch of the Legislature on the question will be noticed at greater length in the next chapter. That the laity and the priesthood should have acted differently on the question is, after all, not much a matter of surprise. The worse possible way of convincing a ministry of the truths of voluntaryism is to reduce them, in the application of those truths, to starvation point. That the services of many of those ministers, who so eagerly grasped at the State grants were ill remunerated by the contributions of their flocks it would be idle and dishonest to deny.* In point of fact the people were, after all, practically worse voluntaries than the State-tempted and ill paid ministers. A man's voluntaryism is but a noisy pretence if it be confined to the lips: the true voluntary feels it a duty to contribute freely towards the respectable maintenance of his minister; while he who merely talks voluntaryism, no matter how loudly, and starves him who is the chosen minister to his spiritual wants is guilty of an attempt to compel that minister to desert his principles and accept from the State extraneous assistance to make up for that of which he is robbed by his natural employer. If a ministry be adequately paid, they can have few incentives to become pensioners of State. But if a starving man is justified by the law of nature in stealing to supply his wants, so far as may be necessary to sustain life, a half starved minister accepting grants from the State is not half so criminal as those who reduce him to that necessity, and to whom he has a right to look for adequate support.

* The Synod of the Church of Scotland stated that the voluntary contributions received by each minister did not exceed £100 a year. But it must be remembered that, in this case, the people were not thoroughly imbued with the spirit of the voluntary principle. They had always been accustomed to look and still looked to the state for pecuniary support for their ministers.

CHAPTER VIII.

The Legislative Council asks the Imperial Government to assume the settlement of the question—The Assembly puts in its protest—The question of Imperial Legislative jurisdiction; and the views of Lord Glenelg, Lord John Russell and the law officers of the Crown thereon.

The Legislative Council began to feel the insecurity of the tenure by which they held the power that enabled them to exercise that species of negative absolutism by virtue of which they had hitherto prevented all efficient legislation in regard to the Reserves. It could not be disguised that some contingency might arise that would render intolerable the vexatious antagonism which they had pertinaciously opposed to the efforts of the Assembly to bring the question to a satisfactory solution. It is not surprising therefore that the Legislative Council (April, 1835) should pass an address to the King referring the question to the Imperial Parliament for settlement. In 1831, the Council had passed a similar address, but it was never replied to, probably in consequence of the Imperial Government having determined to recommend the re-investing of the lands in the Crown, discharged of all trusts. The like reason accounts for the omission to reply to the Assembly's address of the same Session, invoking Imperial Legislation on the question. In their address of 1835 the Council, with their way of thinking, naturally deprecated a continued agitation of the question, which all their obstructions to the passage of measures proposed for its settlement by the Assembly only inflamed. In the face of the abandonment of the lands proposed by the Imperial Government four years before, they affected to feel no apprehension that the Reserves would ever be appropriated to other than sectarian objects. With this intended restriction to its action, they proposed to confide freely in the wisdom of the Imperial Parliament to pass some "final and unequivocal" measure, making such an appropriation of the lands as should "appear to be most consistent with a due regard to "religion, to the principles of our constitution and "to the permanent welfare and tranquility of the "Province." The meaning of this was not to be mistaken. In the Council's view of the matter, the 'principles of the constitution' unquestionably

required the exclusive establishment and endowment of the Church of England. The Assembly referred this address to a select committee, which reported a resolution condemnatory of the scheme. The resolution declared unchanged the opinion of House that the lands ought to be sold and the proceeds applied to education; that it would be unjust to grant the monies to one or more favored denominations, and impracticable, and, from many considerations inexpedient to distribute them among all; that the House in compliance with the invitation of the Imperial Government to vary or repeal the provisions for the allotment and appropriation of the Clergy Reserves had, during the Session, passed a bill to provide for the sale of the lands for the support of education; which bill the Council had rejected. A hope was also expressed that his Majesty would "not "be induced by any representation, whether "secret or open, to depart from the gracious "intentions which he has been pleased to inti- "mate of complying with the earnest and re- "peated solicitations of His Majesty's faithful "subjects in this Province on the subject." This resolution, which was adopted by a vote of 24 against 10, was laid before Sir J. Colborne by whom it was transmitted to the Colonial Secretary.

The address of the Legislative Council, although it had met the opposition of the other branch of the Legislature, raised the question of Imperial Legislative jurisdiction over the Reserves. Lord Glenelg, who then held the seals of the Colonial office, acknowledged the address, but declined (July, 1835) to recommend to Parliament the course of action solicited.

"The disposal of the Clergy Reserves," he says, "is as you have described it, a question of great importance. It is a subject which has been frequently under the consideration of my predecessors, and to which I have found it necessary to devote much of my attention since I received the seals of this department. I am not, however, prepared at the present moment to give you any additional instructions upon it. However much I may regret the difference of opinion between the House of Assembly and the Council, which prevented its settlement during the session which has lately terminated, I cannot look upon that event as precluding the possibility of a more favorable result hereafter. *I trust that in their next session the Legislature will resume, and will be enabled to conduct to a successful conclusion, some measure for the arrangement of this question.* To take any immediate step with reference to your present despatch and its enclosures, under such circumstances, would be premature; and I must, therefore, for the present decline to interfere with the deliberations of the Provincial Legislature, by offering to them any suggestions of my own upon the subject of the Clergy Reserves."

Bishop Macdonell, assuming that the address of the Legislative Council would be acted upon by the Imperial Government, memorialized His Excellency Sir J. Colborne to recommend to His Majesty the Roman Catholics for a share of the Clergy Reserves.* In reply to the memorial, which Sir John Colborne transmitted to the Colonial office, Lord Glenelg reiterated his unwillingness to interfere with the deliberations of the Provincial Legislature, to which body the bishop was recommended to address his application in behalf of those for whom he assumed to speak; with the assurance that any claims he might advance would there be received with due consideration. It is due to the Roman Catholics to state that the views of Bishop Macdonell on the subject were not shared to any considerable extent by that communion; of which the Clergy and principal members afterwards published their disavowal of all claims on the Reserves: an example of honest devotion to principle by which other denominations would have done well to profit.

Neither of these replies of Lord Glenelg directly touched the question of Imperial Legislative jurisdiction. That question, however was afterwards (Dec. 1851) fairly met by that functionary in the following despatch to Sir Francis Bond Head:

"Your predecessor and the Council agree in the opinion, that it is vain to expect the concurrence of the two branches of the local legislature in any adjustment of this question, and they therefore invoke the interposition of Parliament; *which interposition the Assembly, on the other hand, deprecate with equal earnestness.*

"The chief practical question, then, which at present demands consideration, is whether His Majesty should be advised to recommend to Parliament the assumption to itself of the office of deciding on the the future appropriation of these lands. There are two distincts reasons, both of which appear to me conclusively to forbid that course of proceeding.

"First: *Parliamentary legislation on any subject of exclusively internal concern, in any British colony possessing a representative assembly, is as a general rule, unconstitutional.* It is a right of which the exercise is reserved for extreme cases, in which necessity at once creates and justifies the exception.

"But important as is the question of the Clergy Reserves in Upper Canada, yet I cannot find in the actual state of the question any such exigency as would vindicate the Imperial Legislature in transfering to themselves the settlement of this controversy. The conflict of opinion between the two Houses upon this subject, much as it is to be lamented, yet involves no urgent danger to the peace of society, and presents no insuperable impediment to the ordinary administration of public affairs. Although a great evil, it is not such as to exclude every hope of mitigation by the natural progress of discussion, and by the influence of that spirit which, in public affairs, not seldom suggests to parties alike solicitous for the general good, some mu-

* In this memorial Bishop Macdonell did not forget the political arguments which on similar occasions had been resorted to by several denominations with such signal success. He represented "that by obtaining a "share of the Reserves they [the Catholics] would be "able to educate and instruct their children in those "principles of loyalty to the sovereign, and submission "to the laws, which they themselves have practiced "through life;" but "that without this advantage they "shall be doomed to see, with grief, their children im- "bibe those democratical and irreligious principles, "which are universally taught in the schools of this "Province."

tual surrender of extreme views, and some compromise on either side of differences which at first sight might have appeared irreconcileable. *Until every prospect of adjusting this dispute within the Province itself shall have been distinctly exhausted, the time for the interposition of Parliament will not have arrived, unless, indeed, both Houses shall concur in soliciting that interposition; in which event there would of course be an end to the constitutional objections already noticed.*

"The second ground on which I think myself bound to abstain from advising His Majesty from referring this question immediately to Parliament, *is that the authors of the Constitutional Act have declared this to be one of those subjects, in regard to which the initiative is expressly reserved and recognized as falling within the peculiar province and the special cognizance of the local legislature*, although its ultimate completion is no less distinctly made to depend, in addition to the ordinary submission to His Majesty, on the acquiescence of the Imperial Parliament.

"It is not difficult to perceive the reasons which induced Parliament in 1791 to connect with a reservation of land for ecclesiastical purposes, the special delegation to the Council and Assembly of the right to vary that provision by any Bill, which being reserved for the signification of His Majesty's pleasure, should be communicated to both Houses of Parliament for six weeks before that decision was pronounced. Remembering, it should seem, how fertile a source of controversy ecclesiastical endowments had supplied throughout a large part of the Christian world, and how impossible it was to foretell with precision what might be the prevailing opinions and feelings of the Canadians on this subject at a future period, Parliament at once secured the means of making a systematic provision for a Protestant clergy, *and took full precaution against the eventual inaptitude of that system to the more advanced stages of a society then in its infant state, and of which no human foresight could divine the more mature and settled judgment.*

"In the controversy, therefore, respecting ecclesiastical endowments, which at present divides the Canadian Legislature, *I find no unexpected element of agitation, the discovery of which demands a departure from the fixed principles of the constitution*, but merely the fulfilment of the anticipations of Parliament in 1791, in the exhibition of that conflict of opinion for which the statute of that year may be said to have made a deliberate preparation. In referring the subject to the future Canadian Legislature, *the authors of the constitutional Act must be supposed to have contemplated the crisis at which we have now arrived*,—the era of warm and protracted debate, which in a free government may be said to be a necessary precursor to the settlement of any great principle of national policy. We must not have recourse to an extreme remedy, merely to avoid the embarrassment which is the present though temporary result of our own deliberate legislation.

"*I think, therefore, that to withdraw from the Canadian to the Imperial Legislature the question respecting the Clergy Reserves, would be an infringement of that cardinal principle of colonial government which forbids Parliamentary interference, except in submission to an evident and well established necessity.*

"Without expressing any further opinion at present on the general objects of the Bill of last Session, I think the effect of that Bill would, as it appears, have been to constitute the Assembly not merely the arbiters respecting the disposal of the funds to be raised by the sale of these lands, but the active and independent agents in affecting those sales, and thus to invest them with the appropriate functions of the executive government.

To the constitutional doctrine here laid down all objection would be the merest cavelling. The Imperial Government were not solicited by the United Legislature of Upper Canada to recommend Imperial Legislation on the question. They were only asked by the non-representative branch of the local Legislature to *assume*, as Lord Glenelg correctly expresses it, the office of deciding on the future appropriation of the lands. Had the two branches of the Upper Canada Legislature agreed in referring the question to the Imperial Parliament for settlement, whatever we might think of the wisdom of the policy which dictated such a course, we should have been compelled to admit that the Province would be bound to submit, without complaint, to the consequences of the step. Whether such a course would have been unconstitutional is another question, and one on which the law officers of the Crown, in England, subsequently decided in the negative. We accept the doctrine of Lord Glenelg that the unsolicited interposition of the Imperial authorities in the exclusively internal affairs of the Province would be justifiable only to avert the calamity of civil commotion arising out of a long and irreconcilable conflict, now no longer possible, between the two branches of the local Legislature; but in any case the appropriate remedy would have been not Imperial interposition, but to bring into harmony the two antagonistic bodies by a reconstruction of the Legislative Council. We must not forget, however, that the non-interference doctrine of the Colonial office was propounded under peculiar circumstances; but which would not, perhaps, justify a suspicion of insincerity. The late Governor, Sir J. Colborne, and the Legislative council had concurred in the opinion that all agreement between the two Houses on the question was impossible. The Assembly had, it admitted, little expectation that the Legislative Council, as then constituted, would comply with the wishes of the people. The whole history of the abortive attempts to Legislate on the question, since 1824, proved at once the power and the fixed resolution of the Legislative Council to prevent the success of any measure on the subject initiated by the Assembly. Under these circumstances, there were small grounds for indulging the hope, expressed by Lord Glenelg, that the Legislative Council would, without the infusion of a single drop of new blood into the old obstructive body, all at once give up its opposition and concur in the measures of the Assembly. Lord Glenelg must have possessed a remarkably ardent mind, if he were sincere in regarding as possible such an unheard-of political miracle. We doubt if there could have been found in the wide extent of the British dominions another man so hopefully credulous; and if there could, it would not have been uncharitable to question his entire sanity. However, the non-interference doctrine is none the worse for the somewhat suspicious circumstances under which it was propounded. We accept it in its entirety; fully agreeing with

Lord Glenelg that the authors of the Constitutional Act in vesting the Provincial Legislatures with complete jurisdiction over the Reserves were taking a far-sighted precaution against the eventual inaptitude of the whole system of providing for religious instruction at the expense of the State.

So delicate a question did Lord Glenelg feel that of Imperial intervention to be, that he afterwards (Sept. 1837) declared that he could not "venture to prescribe to the Legislatures of the "Canadian Provinces the principles on which "they should endeavour to make provision for "the religious wants of their fellow colonists." And when he did afterwards (Dec. 1837) venture the statement that "the contributions of the State "towards the support of the different christian "communities should be regulated by the extent "of the voluntary efforts which the members of "each should make for the promotion of the same "general end;" and suggested that the Reserves should be converted into a fund subject to this mode of distribution, he directed the Under Secretary, only three days after, to state that "Lord "Glenelg would distinctly disclaim, on the part "of His Majesty's Government the wish or the "intention to insist on any such condition as an "indispensible preliminary to an adjustment of "the question;" adding that "such an interference on the part of Government with the "functions of the Provincial Legislature, would, "as his Lordship apprehends, tend to create a "not unreasonable suspicion of the sincerity "with which the Legislatures have been invited "to the exercise of the power reserved to them "on this subject by the Constitutional Act of "1791."

On the question of Imperial Legislative jurisdiction over the Reserves, Lord John Russell (official despatch to C. P. Thompson, Sept. 1839) was even more decided; the Crown officers having gone so far as to pronounce unconstitutional the refering back for settlement of the question by the local to the Imperial Parliament. Lord John says:

"The last of the reserved Bills of the late Session has reference to the long controverted subject of the clergy reserves. To this Bill the Royal assent could not have lawfully been given, until it had been laid for 30 days before either House of Parliament. It was not until the 15th August that I received from the Lieutenant-Governor the document necessary to enable me to fulfil the requisition of the Constitutional Act of 1791. It was, therefore, impossible that the Bill should be finally enacted by the Queen in Council until after the commencement of the Parliamentary Session of 1840. But had this difficulty not arisen, there were other motives which would have effectually prevented the acceptance of this measure by Her Majesty. *Parliament delegated to the local legislature the right of appropriating the clergy reserves, and the effect of the Bill is to retransfer this duty from the local legislature to Parliament, with a particular restriction. I am advised by the law officers of the Crown that this is an unconstitutional proceeding.* It is certainly unusual and inconvenient. Her Majesty cannot assume that Parliament will accept this delegated office, and if it should not be so accepted the confirmation of the Bill would be productive of serious prejudice, and of no substantial advantage. It would postpone indefinitely the settlement of a question which it much concerns the welfare of the provinces to bring to a close; besides I cannot admit that there exist in this country greater facilities than in Upper Canada for the adjustment of this controversy; on the contrary, the provincial legislature will bring to the decision of it an extent of accurate information as to the wants and general opinions of society in that country, in which Parliament is unavoidably deficient. For all these reasons Her Majesty will decline giving her assent to this Bill."

This is one side of the question of Imperial Legislative jurisdiction. The unitiated reader will be astonished to find, in a future chapter, the Imperial Government acting in direct opposition to its own declared principles on this question; and the very same minister who now tells us of the unconstitutionality of a certain procedure carrying out that very procedure in Parliament!

In the first Session of 1836, the House passed a bill (Feb. 24) to dispose of the reserves for purposes of General Education by a vote of 35 against 5. The Legislative Council amended the bill, re-investing the lands in the Crown for religious purposes. The Assembly re-amended it, making the effect of the bill precisely what it had been in the original shape.

CHAPTER IX.

The Rectories—Instructions given 33 years ago to create Rectories in every Township—Instructions repeated—Did they lose their force on the adoption of a new policy with respect to the reserves, and under another king and a new Imperial Cabinet—Conflicting opinions of the Law Officers of the Crown on the legality of the Rectories—A review of the whole case.

On the 15th January 1836, Sir John Colborne, gave a remarkable proof of His Majesty's desire not to endow any "literary or other corpora-"tions until he should obtain the advice of the re-"presentatives of the Canadian people for his "guidance." For nearly ten years these representatives had unceasingly opposed the continued existence of the Reserves, and deprecated their devotion to sectarian purposes. Their proceedings on the subject, session after session, were regularly placed before his Majesty for his guidance. Yet in direct opposition to the repeatedly expressed wishes of those representatives, which his majesty was specially pledged to respect spect, Sir John Colborne in Council created and endowed 57 rectories* in Upper Canada. This

* The number of rectories for which endowments were recommended by the order in Council of January 1836 was 57; but twelve of the patents were not complete: there were two rectory patents for Toronto; of which one—that for the township of Toronto—was incomplete; the other was complete; and

exercise of executive authority, so extraordinary under the circumstances, was for some time kept a secret from the public, as there existed no legal necessity for its promulgation. Sir John Colborne as if conscious that he was about to perpetrate an act which was sure to inflame the popular discontents, deliberated long before he ventured to accede to the advice of his council in the matter.* It was almost the last act of his Government; performed under peculiar circumstances of embarrassment, when his mind was perplexed by the intelligence of his recall. The first discovery of the existence of Rectory patents was accidental; and the intelligence, rapidly circulated over the Province, was every where received with feelings of extreme dissatisfaction. Public meetings were held to denounce the aggression on popular rights. Newspaper polemics, heretofore characterized by an unnatural fervor, acquired additional acrimony. Even that obsequious body the Wesleyan Methodist Conference rose in arms against the act. The Imperial Government was besieged with petitions, praying for the annulment of the Rectories. The temper of the public mind became imbued with that sullenness which a sense of injury begets, and which forbodes the approach

had assigned to it 800 acres of land, and Archdeacon Strachan, was appointed the first Rector. To the following Rectories of which the patents were complete, the quantities of lands stated were assigned, and the persons named appointed as Rectors. Grimsby, 400 acres, Rev. R. F. Grout; Ancaster, 400 acres, Rev. John Miller; Thornhill, 105 acres, Rev. Geo. Mortimer; Woodhouse, 402 acres, Rev. Francis Evans; Wellington Square, 400 acres, Rev. F. Mack; Augusta, 450 acres, Rev. R. Blakey; Cavan, 400 acres, Rev. Samuel Armour; Hallowell, about 400 acres, Rev. William Macaulay; Perth, 400 acres, Rev. Michael Harris; Elizabethtown, 400 acres, Rev. W. H. Gunning; Oxford, J. D., 450 acres, Rev. H. Patton; Bertie, 400 acres, Rev. John Anderson; Peterborough, about 420 acres, Rev. R. H. D'Oliver; Woodstock, 400 acres, Rev. W. Bettridge; St. John's Church, Yonge Street, 200 acres, Rev. Chas. Matthews; Cobourg, about 400 acres, Rev. A. N. Bethune; Cornwall, 410 acres, Rev. George Archbold; Adelaide, 401 acres, Rev. Dominick E. Blake; Etobicoke, 205 acres, Rev. T. Phillips, D.D.; Warwick, 400 acres, Rev. John Ratcliffe; Markham, 400 acres, Rev. V. P. Meyerhoffer; Belleville, 418 acres, Rev. John Cochrane; Bath, 400 acres; no incumbent at first; Richmond, Bathurst District, 400 acres; no incumbent; London, 404¼ acres, Rev. Benj. Cronyn, second Church in Township of London; Amhertsburg, 400 acres, Rev. Romain Rolph; St. Catharines, 400 acres, Rev. James Clarke; Louth, 300 acres, Rev. James Clarke; Thorold, 400, Rev. James Clarke; Chippewa, 400 acres, Rev. William Leeming; Adolphustown, 164 acres, Rev. Job Deacon; Fredricksburg, 250 acres, Rev. Job Deacon; Clarke, 415 acres, given by S. S. Wilmot, Esq; no incumbent; Darlington, 400 acres, no incumbent; Beckwich, 400 acres, Rev. Jonathan Short; Niagara, 400 acres, Rev. Thos. Green; 326 acres, in various lots were assigned to the Rev. Arthur Palmer, of Guelph, but to the rectory no locality is assigned; Kingston, 700 acres, the Archdeacon; Barrie, 420, no incumbent; Port Hope, 436 acres, Rev. J. Coglan. This land is stated in a return made in 1838, in answer to a requisition of the House of Lords, and signed R. B. Sullivan, to have been surrendered by Mr. Coglan. It had probably been a glebe previously. London, 375 acres, Rev. Benjamin Cronyn. Woodstock, 29 acres in the Town of Woodstock, Rev. William Bettridge. This land was assigned by order in Council November 1834, more than a year previous to the creation of the other rectories.—In the cases where the patents were not completed it was not from want of incumbents, for in all these cases, with one single exception, incumbents were appointed. The following are the rectories for which the patents were not completed, with the quantities of lands assigned to each, and the incumbents appointed:—Hamilton, Gore District, 400 acres, Rev. John Gamble Geddes; Ameliasburg, 400 acres, Rev. John Grier; Williamsburg, 400¼ acres, Rev. J. G. Beck Lindsay; Carleton Place, 400 acres, Rev. Edward J. Boswell; St. Thomas, 400 acres, Rev. Mark Burnham; Bytown, about 400 acres, Rev. A. H. Burwell; Toronto, about 400 acres, Rev. James Magrah; March, 400 acres, Rev. James Padfield; Brantford, 400 acres. Rev. R. Lugger; Delaware, 435 acres, Rev. Richard Flood; Sandwich, about 400 acres, Rev. William Johnson; Chatham, about 400 acres, no incumbent. The term rector had for many years been in use in Upper Canada. In 1823, Dr. Strachan assumed the title of "Rector of York," in 1822, £150 was paid to the Rev. Ralph Leeming, as rector of the Parish of Ancaster, on Sir P. Maitland's warrant, to aid in erecting a parsonage house; and in 1824, a sum of £300 was paid, on the same authority, and for a like purpose to the Rev. William Macaulay, as rector of the Township of Hamilton, Newcastle District. But it does not appear that, at these dates, Rectories had been created and endowed, in the way prescribed by the Constitutional Act. On the contrary, the title seems to have been merely assumed as it is now in Lower Canada, where no rectories have been created, but where it is quite common to speak of the "rector of Quebec," for example. It is certain, however, that to the rector of York a portion of land was early assigned, consisting of certain town lots which, in 1831, had begun to produce a revenue. In consequence of these lots becoming productive the salary authorized by Lord Bathurst's Despatch of July 1st. 1824, to be paid to Dr. Strachan was discontinued in 1831. But doubtless these nominal rectors were only the holders of glebes,—from which they derived no ecclesiastical authority—for which, on the first commencement of the sales of the Reserves, Lord Bathurst instructed lands to be reserved in every Township. To the rectories of which the patents were completed an aggregate endowment of 22,-931 acres was assigned; and to the thirteen of which the patents were incomplete there was assigned an aggregate endowment of 4,118 acres. The endowments actually compleded, included 8 332 acres which had previously been set apart as glebes, but for which, or a portion of them, it appears no patents had issued. The entire amount set apart for glebes up to December, 1837 was 21,057 acres. The portion of the Peterborough Rectory for the sale of which authority was asked from Parliament last Session, had been set apart as a glebe prior to the creation of rectories, but no patent had issued.

* Dr. Strachan in his letters to the Hon. William Morris, states that Sir John Colborne "after much deliberation" acceded to the advice of his council to create the rectories. Of that council Dr. Strachan was a member.

of civil commotion. It was the idea of violated Imperial faith; of a broken compact between the Sovereign and his Canadian subjects, that constituted the sting of the injury. The people recurred to the promise of Lord Goderich that their wishes should be the Sovereign's guide in the matter; and regarded themselves as the victims of a deception which brought dishonor on the crown and distrust on Imperial faith.

The Church of Scotland called for the revocation of the patents,* but on grounds that were neither just nor tenable. She had never made common cause with other denominations in their attempts to secularize the reserves; but only studied by what means she could best obtain a share of the estate. Consistent in her selfishness, she now complained of the establishment and endowment of rectories, not on the principle that a wrong was done to all other denominations by the granting of exclusive privileges and favors to the Church of England, but that she herself by the treaty of union between England and Scotland was entitled to an equality of privileges with the favored church. Instead of joining other denominations in their demand for the abrogation of the Reserves, the church of Scotland had persistently claimed to share in the proceeds; and she now demanded the abrogation of the rectories only because a rival church was more favored than she. Quite willing was she that all other denominations should be placed in a state of disability with respect to her; but that she should be placed in a position of disability with respect to the church of England was intolerable. She held two sets of principles: one for application to herself; the other to other denominations.

Sir John Colborne kept the creation of the Rectories a secret from the Imperial Government; by whom a report on the subject was obtained by solicitation from his successor, Sir Francis Bond Head. In replying to the complaint of the church of Scotland, Lord Glenelg urged this want of official information as a reason (Dec. 1836.) for not then being able to bring the question before His Majesty; and for refusing at that time, to attempt to form any opinion upon it. Ten days after the order in Council establishing the Rectories, Sir John Colborne had performed his compulsory abdication of the government, and was on his way to England. Short as the time was it afforded ample opportunity for Sir John to have reported the proceedings of the Provincial Government had they been predicated upon the undoubted and unequivocal authorization of the Imperial authority, to whom the initiative in the creation of rectories was expressly reserved by the constitutional Act. The omission to make any such report gives the stamp of cowardice and concealment to the whole proceeding.

In the first Session of 1836, held just after the arrival in the Province of Sir Francis Bond Head, the House of Assembly passed certain resolutions on the subject of the rectories and the disposal of the reserves revenues, in which they declared that "this is a state of things no less "alarming than disgusting, when it is considered "what the prevailing opinion and feelings "throughout the country are known to be, on this "all-important and interesting subject, and calls "aloud for immediate remedy." The resolutions were adopted by a vote of 38 against 5. After the prorogation, Sir Francis Bond Head dissolved Parliament; and in the election of a new one resorted to means by which he openly trampled on the constitutional rights of the Canadian people. It has been stated, on the high authority of Lord Durham, that the elections, which were held in the summer of 1836, were "in a number of instances carried "by "the unscrupulous influence of the Government "and by a display of violence on the part of the "tories who were emboldened by the countenance "afforded them by the authorities." It is not surprising that a House of Assembly elected by such means, should have declared, (February 9, 1837), "That this house regards as inviolable the "rights acquired under the patents by which the "Rectories have been endowed, and cannot there-"fore either invite or sanction any interference "with the rights thus established." A different opinion, however, was held by the law officers of the Crown, in England, who, on the 8th June, 1837, pronounced the establishment of the rectories illegal. Dr. Strachan, in his published letters, went to great lengths in condemning Lord Glenelg, for allowing "an inaccurate case "to be submitted to the law officers of the Crown;" but the truth is that case was made out from the papers furnished by Sir Francis Bond Head, including the following minute of Council, which bears internal evidence of the authority on which the rectories were created:

EXECUTIVE COUNCIL CHAMBER,
Toronto, Friday, January 15, 1836.

PRESENT,

The Hon. P. Robinson, *Presiding Chancellor*: The Hon. George H. Markland: and the Hon. Joseph Wells.

To His Excellency Sir John Colborne, K.C.B., Lieutenant Governor of the Province of Upper Canada, and Major General commanding His Majesty's forces therein

May it please Your Excellency:

Pursuant to the views of Lord Goderich, shown by his despatch of the 5th April, 1832, in which he concurs with your Excellency, and expresses his desire "that a moderate portion of land should be assigned "in each Township or Parish, for ensuring the future "comfort, if not the complete maintenance of the "Rectors" the Council caused the necessary steps to be taken for the purpose of setting apart lots in each Township throughout the Province.

Much delay has been caused by their anxiety to avoid interfering with persons who might have acknowledged claims to any of the Reserves to be selected either for lease or purchase.

A difficulty in completing what His Lordship most

* Memorial of the Synod, Sept. 20, 1836.

appropriately calls the "salutary work," was also caused by the Crown Officers not concurring in the form to be used in the instruments by which the endowment is to be confirmed, which left the Council to decide as to the mode to be adopted for that purpose.

These obstacles have now been surmounted, and it is respectfully recommended that no time be lost in authorising the Attorney General to prepare the necessary instruments to secure to the incumbents, named in the annexed schedules, and their successors, the lots of land there enumerated, as having been respectively set apart for Glebes.

All of which is respectfully submitted,

(Signed) PETER ROBINSON, *P.C.*

Lord Glenelg, having consulted the various documents referred to by the local government as containing the authority for the erection of the Rectories, came to the conclusion that "no such "sanction had ever been given." It is obvious enough, however, that Lord Glenelg was desirous that the Church of England should retain the endowments, whether the Rectories had been legally created or not. Even the policy of their creation he was indisposed to make a question. He indulged the hope that the distribution of the Reserves revenues, among the various religious denominations, by a special act to be passed for that purpose, would check the force of the opposition directed against the Church of England in consequence of the creation and endowment of the rectories. Of a scheme for effecting this object introduced into Parliament, at the instance of Sir Francis Bond Head, Lord Glenelg was confessedly the originator. He yielded to the desire of the Provincial oligarchy to procure a review of the opinion pronounced by the law officers of the Crown. Dr. Strachan had drawn up a report of the proceedings of Council, attempting to show that an incomplete case had been submitted to the Law Officers of the Crown; and recalling Lord Glenelg's attention to two despatches from Lord Bathurst, one of 1818, and the other of 1825, conveying to the Provincial Government of those times authority to proceed with the creation and endowment of rectories. When the case had been submitted a second time to the law officers of the Crown, and before their decision had been pronounced, Lord Glenelg (despatch to Sir George Arthur, Dec. 26, 1837.) showed very plainly the kind of decision he was desirous they should arrive at. Referring to the resolution of the Assembly of 1836, which declares inviolable the rights acquired under the patents, his lordship says:

"On the part of Her Majesty's executive Government I cannot hesitate to avow our entire adoption of the principle by which this resolution was dictated. Although the endowments of the rectories in the year 1836 *did not take place with the previous concurrence of the present ministers of the Crown*, yet as they *appear to have been made at least under a presumed authority from the Secretary of State*, and as considerable time has now elapsed since the parties were in possession of the lands, I should much regret to be compelled to disturb that settlement, or to dispossess the clergy of the Church of England of the lands which have been assigned for their maintenance.

"Should the legal right now appear to the law officers of the Crown to be indefeasible, no practical question will remain for the decision of the government; *but, even on the contrary supposition, I feel that, with the concurrence of the local legislature, the endowments which have been actually made might be* ratified in connexion with some general scheme for the future appropriation of the Clergy Reserves which would satisfy the reasonable claims of other denominations of Christians. As a basis of such a settlement, I would propose that under the peculiar circumstances of the case, the right of the Church of England to the endowments of January 1836 should be acknowledged and ratified. * * * I conceive that, if the arrangement I suggest should meet with general acceptance, there will be no difficulty in obtaining an Act of general Assembly for the purpose, and that the interference of Parliament in the internal affairs of the Province may thus be avoided."

It would not have been a very hazardous thing to predict what would be the opinion of the crown officers of a government whose leanings were expressed in language so explicit and their objects so openly avowed. The following despatches were now submitted as part of the case, on which the Crown Officers were required to pronounce:

Copy of a despatch from Lord Bathurst to Mr. President Smith, dated

DOWNING STREET, 2nd April, 1818.

Sir,—The Bishop of Quebec has frequently brought under my consideration, the advantages that would result to the Church of England in the Province under your government from the legal establishment of Parishes and Rectories in conformity with the provision contained in 31st Geo. III, Cap. 31.

As I entirely concur with his Lordship, in the propriety of adopting a measure calculated to give to the Protestant Church in the Canadas the support which it was in the contemplation of the Parliament of this country to afford to it, I have not failed to submit his Lordship's representations to the Prince Regent, and I received His Royal Highness's commands to instruct you to take the necessary legal measures for constituting and erecting Rectories and Parishes in every Township within the Province under your government; and you will also take care that it be distinctly understood that the constitution of Parishes and Rectories can give no claim whatever to any incumbent to receive tithes of the lands within the limits of his Parish; all claims of that nature having been effectually annulled by the provision for the support of a Protestant clergy, made in the 31st year of the king, and by the declaratory law passed by the Legislature of the Province in 1816.

The endowments of the several Rectories with due portions of the Clergy Reserves, will be necessarily a matter of future consideration, and until the more general settlement and cultivation of the Province shall have taken place, I consider it advisable that the management of the several Reserves should, as is the case in Lower Canada be vested in a corporate body, or continue as at present under the control of the Lieutenant Governor and Executive Council.

I have &c.,

[Signed.] BATHURST.

It will be seen that these instructions followed immediately on the first attempt made by the

Assembly, in the previous year, to prevent the Church of England obtaining a monopoly of the Reserves. Lord Bathurst saw the coming storm in the distance; and thought it best to proceed without delay to secure the harvest to the Church of England. Were the temper of the public mind at that period unknown to us it would be totally inexplicable that the instructions contained in this despatch were not acted upon; and that further instructions to the same effect were again deemed necessary nearly seven years after:

Copy of a Despatch from Lord Bathurst to Major General Sir Peregrine Maitland.

DOWNING STREET, July 22nd, 1825.

SIR,—I have received his Majesty's commands to direct that you do from time to time, with the advice of the Executive Council for the affairs of the Province of Upper Canada, constitute and erect within every Township or parish which now is, or hereafter may be formed, constituted or erected within the said Province, one or more Parsonage or Rectory, or Parsonages or Rectories, according to the establishment of the Church of England; and that you do from time to time, by an instrument under the Great Seal of the Province, endow every such Rectory or Parsonage with so much, or such parts of the land so allotted and appropriated as aforesaid, in respect of any lands within such Township or Parish, which shall have been granted subsequently to the commencement of a certain Act of the Parliament of Great Britain, passed in the thirty-first year of the reign of His late Majesty, King George III, intituled &c., &c., or of such lands as may have been allotted and appropriated for the same purpose by, or in virtue of any instruction which may have been given by His said late majesty before the commencement of the said Act, as you shall with the advice of the said Executive Council, judge to be expedient under the existing circumstances of such Township or Parish.

You shall also present to every such Parsonage or Rectory, an incumbent or minister of the Church of England, who shall have been duly ordained according to the rites of the said Church, and supply from time to time such vacancies as may happen therein.

I have, &c.,

[Signed] BATHURST.

On this new case, or rather the old case supplemented by an ingenious after-thought of Dr. Strachan, the law officers of the Crown—J. Dodson, J. Campbell, and R. M. Rolfe—decided, Jan. 28, 1838, reversing their previous decision:

1st. That the Governor and Council could lawfully establish Rectories.

2nd. That Lord Goderich's Despath of 5th April, 1832, did not confer the requisite authority to erect and endow Rectories.

3rd. That notwithstanding this, the Rectories established by Sir John Colborne were lawful.

4th. We are of opinion that the Rectors of the Parishes so erected and endowed, have the same ecclesiastical authority within their respective limits as are vested in the Rector of a Parish in England."

Much as has been said, and justly too, of the selfishness of the High Church party we confess our greatest surprise is not that Rectories were created in 1836, but that they were not created eighteen years sooner. The long delay is proof that the Oligarchy were not wholly insensible to the influence of public opinion. All the Executive Councillors were High Churchmen, with the single exception of Mr. Baby, who belonged to the Roman Catholic communion, but who favored the scheme of establishing Church of England Rectories. Yet for eighteen years did the successive Governors and their Council disobey the positive instructions of the Imperial Government to create and endow Rectories in connection with the Church of England, in every township throughout Upper Canada. In Nov. 1825, shortly after the receipt of the last instructions from Lord Bathurst on the subject of Rectories, the active Triumvirate of Sir P. Maitland's Counsel, Chief Justice Campbell, the Hon. Jas Baby and Dr. Strachan, drew up a Report on the subject to Governor Maitland: referring to Lord Bathurst's instructions, they recommended the division of the Province into parishes, with all possible despatch, "not only because it appears necessary before the "new system of land granting goes into operation, which implies such division to have previously taken place, but as giving a religious "character to the country." In the details of the scheme some difficulty arose, all the townships not being of equal dimensions; though in the estimation of Dr. Strachan and his colleagues the smallest of them were too large for one Parish; and the question was into how many ought they be divided. A large class of the townships possessed Reserves to the extent of 9,800 acres. These it was proposed to divide into two paishes, and the Reserves belonging them into three equal proportions, of which two were to be assigned as endowments of a Parsonage to each of the two parishes; the remainnig third to be held by the Clergy Corporation for general purposes. A similar distribution was proposed for Parishes of other dimensions. Notwithstanding the decision of the law officers of the Crown that the Church of Scotland might be allowed to share in the Reserves, this scheme proposed to secure the monopoly of the whole estate to the Church of England. The third of the estate not to be assigned as endowments, was to be disposed of for the purpose of creating a fund applicable to the maintenance of Episcopalian Clergymen, till the endowments became productive. The endowments were to be managed by the Clergy Corporations till assumed by the incumbents. A wholesale system of pluralities was to be established, the two Parishes of each township to be conferred on one incumbent, at first; by which arrangement he would have become the possessor of 6,600 acres; capable of being divided into sixty-six farms of 100 acres each. In each parish he was to be required to perform duty on Sundays, except in cases where he should think proper to relieve himself of the duty. It was to be in the choice of the minister to take his salary from the fund accruing from sales, or to take posession of the endowment, at any time when he might think proper. The abrogation of the plurality system was to take place when the endowment

assigned to each Rectory would yield a sufficient separate maintenance, which, in the estimation of the Triumvirate, seemed to be about £330 a year. The plurality system would not have ended with the existing generation, for the incumbent of the two parishes was to be at liberty to grant leases for three lives or twenty-one years: in some places the leasing might not even yet have commenced.

On these recommendations Sir P. Maitland did not venture to act; unscrupulous as was his sectarianism, and undisguised as was his partisanship. He doubtless dreaded the effects of the proposed measure; and therefore shrank from the responsibility of carrying it into execution.

The instructions of Lord Bathurst proposed a scheme more daring and comprehensive than that which had been submitted to the Imperial Government in 1824: (see chapter 3,) at the suggestion of Maitland the latter scheme had been proposed; but when it came to the test, he who planned extensive schemes of Episcopalian aggrandizement had not the courage to carry them into effect.

To come to the second opinion pronounced by the law officers of the Crown. Into the strictly legal question we do not propose to enter. Indeed the question is not so much one of law as of public morality; and in its discussion the question of Imperial good faith is involved. Of the legal opinion of the law officers of the Crown we may remark that it is worth a little less than that of any other three sound lawyers, unconnected with the Government, and feeling no undue interest in the possible result of their decision.

A question, which we do not discuss, has been raised as to whether the instructions of Lord Bathurst would not become void with the death of the reigning Sovereign * of the time when they were issued. There must of course be some limit to the time when such instructions cease to be operative; and there may be much force in the argument to which we allude. The death of the Sovereign cancels all commissions; and by analogy, might be supposed to render void all instructions similar to those under consideration. It might also be made a question whether the instructions of one Imperial Cabinet, in a case of this kind, be binding on its successor, which may desire to adopt a diametrically opposite policy; and consequently whether the instructions of Lord Bathurst did not become void on a change of the Imperial Ministry. But these questions are not relavent to the present case; and for this reason: *Since* 1825, *the date of the last "set" of instructions, the Imperial Government had avowedly changed its entire policy with respect to the Reserves.* By its instructions bills had been introduced into the Legislatures of Upper and Lower Canada for re-investing the lands in the Crown, absolutely, discharged of all trusts. In December, 1835, Lord Glenelg declared his adherence to the new policy of the Imperial Government, which was first propounded in 1831. This was only about thirty days prior to the [illegible]ation of the Rectories. The change of policy, on the part of the Imperial Government, must in the nature of things have been tantamount to a specific cancelling of Lord Bathurst's previous instructions; for two courses of policy, each directly opposed to the other, could not exist simultaneously. This was evidently the opinion of Sir John Colborne's Council, when the Rectories were created; or the minute of council would not have referred to Lord Goderich's despatch of April, 1832, as sole authority for the act. That despatch the law officers of the Crown, *in their second decision*, pronounced not sufficient authority for the creation of Rectories. Where, then, is the authority? Dr. S[illegible]man fell back on the old instructions of L[illegible]athurst, which could have had force only anterior to the adoption of a policy which had been officially promulgated for five years, and re-asserted only one month previous to the creation of the Rectories.

We do not overlook that on the announcement of a change in the Imperial policy with respect to the reserves, in 1831, the right of the Imperial Government to authorize the creation of rectories was intended to be specially reserved. But it was intended to secularize the reserves, without which the existing rectory endowments could not have been made. The reserving of that right might have contemplated the case of rectories to be endowed with private property. The 57 rectories furnish one example of this kind. In the endowment of the existing rectories lands have been used, which the success of the measure of 1831 would have placed beyond the reach of government for that purpose. Although that measure had not been carried, the policy which dictated it had not been abandoned; and it would be grossly inconsistent, if not an act of bad faith, for the Imperial Government to profess an anxiety to divert these lands from a particular purpose; to invite the Colonial Legislatures to pass bills for effecting that object, and then, pending the successful action of those legislatures, to turn round and authorize an irresponsible executive to apply them, or a portion of them, to the very purpose from which that identical government had expressed a desire that they should be forever alienated. So that the endowment of the rectories with the reserves was clearly inconsistent with the measure of 1831.

The Rectories had been created without the knowledge or concurrence of the Imperial Government of the day; and its predecessor had, through Lord Goderich, volunteered a solemn pledge in the most public and official manner, that no corporations, "literary or otherwise," should be endowed "until His Majesty should "obtain the advice of his Canadian subjects for his "guidance in this respect." It is not pretended that any advice was given by the representatives of the Canadian people to endow rectories. It was notorious that all their feelings, legislation,

* Letters of the Hon. Wm. Morris, to Dr. Strachan.

addresses, and advice were in the opposite direction. Yet, in defiance of that promise, and with a full knowledge of the feelings of the people and their representatives, on the subject, rectories were created and endowed. How, then, could charity itself avoid the imputation of bad faith? Of sullied Imperial honor? On this supposition only: that the rectories were created without authority from Lord Goderich. And this supposition is the actual case. The revocation of the unauthorized act was required not only by the temper of the people and the dictates of sound policy, but also for the vindication of Imperial honor and good faith. Although the act was exclusively that of the local government; yet, unless it were disavowed, the Imperial Government must be held responsible for it; for the moment the Imperial Government sanctioned by its silent acquiesence the usurpation of its powers by the local executive, it made itself a party to all the consequences of that usurpation. That the Imperial Government did incur this responsibility admits of no denial.

When Lord Glenelg suggested that the rectory endowments should be ratified, irrespective of the legality of their origin, and in connection with a general scheme of sectarian corruption, he was not unaware of the character of the Parliament which the unscrupulous and unconstitutional efforts of Sir Francis Bond Head had called into existence.* It appeared a fitting instrument for the work he wished accomplished. Under his directions, attempts were made (with what success will appear in the next chapter,) to carry a measure for distributing the Reserves among such of the religious denominations as were deemed of sufficient importance to render their admission to a share an act of State policy. But if the legality of the rectories was not to be regarded; the submitting of the question to the Law officers of the Crown was an act of official trifling, without aim, object, justification or excuse. Lord Glenelg substituted his own personal inclinations for justice and right, in allowing the lapse of time, since the parties came into possession of the lands to disincline him to disturb that possession. If this principle were to be applied to the administration of criminal justice; if it were generally admitted that time can consecrate wrong and give a character of legality to fraudulent possession; every principle of justice would be banished from the courts.

Let us recapitulate. We have shown that the rectories were created without the concurrence or the knowledge of the Imperial Government of the time; that the authority given by the minute of Council establishing them was not sufficient to warrant the act predicated upon it; that the preceding Imperial Government had not only not authorized the creation of rectories, but pledged its faith not to create any unless advised to do so by the representatives of the Canadian people; and that no such advice had ever been given; that six years subsequent to the date of the instructions last given by Lord Bathurst to create rectories, the entire policy of the Imperial Government with respect to the Reserves had been reversed; that the new policy was still adhered to by the Imperial Government up to the time when the rectories were created; that the instructions of Lord Bathurst must have lost their force, on the adoption of a policy inconsistent with them; and consequently that the rectories must have been created without any authority whatever.

* Sir Francis in a despatch to Lord Glenelg unwittingly admits the charges of partisanship, and at the same time acknowledges the effect of the creation of the rectories: he says, "the feeling which the endowment of these rectories created throughout the Province was one of the many difficulties I had to contend against during the late elections."

CHAPTER X.

Lord Goderich's bribery scheme a failure—Lord Glenelg improves upon it—The new Bishopric and the question of salary—Sir Francis Bond Head proposes a division scheme; but abandons it in despair.

The Episcopalians found that they were not immediate gainers by the success of Lord Goderich's scheme, which had given them a temporary monopoly of the Reserves revenue. As a consequence they had lost the grants hitherto voted by the Provincial Parliament,* and with that grant they had also lost the aid extended to them by the Society for the propagation of the gospel in foreign parts. Under the former arrangement many of their ministers enjoyed a salary of £200 a-year each; which had now been reduced 15 per cent.; while the stipend assigned to many of them did not exceed £100. But in the Episcopalian view, this was not the worst feature of the case. In a memorial (1836,) from the "Clergy "of the established church" in Upper Canada, as the memorialists styled themselves, it is complained that "the provision thus established contemplates the case of the present incumbents "alone,† and that no assurance is conveyed, of its "extension to their successors, or of the appropriation of any part of it to the supply of the "same sacred services when they shall be interrupted by the deaths of the clergymen at present resident in the Province, much less to enable the Bishops to meet the increasing wants of "the church by assigning to any additional ministers the humblest permanent maintenance." The memorial exaggerated the flourishing condition of the Church of England in the Province, for whose members a degree of su-

* This grant ceased July 1st, 1832. The allowances of the Society for the propagation of the Gospel in Foreign parts ceased in 1834.

† This must have had reference to grants received from the territorial revenue.

perior respectability was claimed. The services of 100 additional Episcopalian Clergymen were said to be needed; but this alleged demand for new supplies of ministers is disproved by the fact that the nominal Episcopalians, in spite of their alleged superior respectability, were unwilling to contribute to the support of their pastors. In opposition to the alleged continuous increase of the Episcopalians, we have the fact that, in 1839, they numbered less than one-fourth of the population. Yet their numbers were adduced as a reason for permitting them to monopolize the reserves.

The affections of Dr. Strachan had become fixed on a mitre and lawn of sleeves. He could no longer suppress his anxiety to mount that Episcopate which was the summit of his ambition. The then organized districts of the Province covered a superficial area equal to that of England and Wales. The resources of the country afforded a guarantee that its distant future would boast a population of millions. Already the Roman Catholics had five Bishops, of whom the sees of three were in the Lower, and of the other two in the Upper Province. The Church of England was comprised in one diocese. The erection of Upper Canada into a seperate diocese would place within the reach of Dr. Strachan the object of his ambition. He secured the ready concurrence of the Clergy in his petition to the King for the erection of a new diocese commensurate in extent with the Upper Province. The subject of this petition was referred by the Imperial Government to the Archbishop of Canterbury; and pending that Prelate's expression of his opinion thereon, Lord Glenelg acknowledged the petition [Dec. 20, 1836] and stated that whatever might be His Majesty's ultimate decision on the point, it would not be in His Majesty's power to provide for the new bishopric any pecuniary emoluments or other endowment. In 1839, the new diocese was created, and the coveted mitre fell on the head of Dr. Strachan.

Notwithstanding the condition on which the Bishopric was created, the new prelate did not long perform the Episcopal function gratuitously. A Despatch from the Colonial Secretary, of the 3rd July, 1846, directed the payment to the Bishop, out of the Clergy Reserves revenues, of a salary of £1,250 sterling, a year, with all arrearages from the date of his appointment. In 1849, a portion of the Clergy expressed their discontent in tones that disturbed the meek prelate's repose, with the secret mode of distributing the monies. To calm the irritation an anonymous pamphlet was published, for private circulation, early in 1849. This production was attributed, and doubtless correctly, to the pen of the Bishop himself. It denounced the clerical agitation as "unquestionably very wicked;" and asserted that "It "was reserved for a small portion of our Clergy to "give an example of insubordination and selfishness nowhere else to be found," but it nevertheless told the unwelcome secret of the Bishop's salary.

Lord Goderich's scheme of bribing into acquiesence with his plans for giving for the church of England that factitious ascendancy which money can command the more considerable religious bodies had, after a fitful promise of success, failed in its object, solely from the inadequacy of the means of bribery; and it was resolved to modify the scheme by making the means commensurate with the end. The Church of Scotland had expressed its dissatisfaction, and there had been a minature insurrection in the Wesleyan Conference. The ostentatious nervousness of Lord Glenelg on the subject of Imperial interference with the exclusively internal concerns of the Province, did not prevent his throwing out the hint (Despatch to Sir F. Head, Dec. 19, 1836) that a measure for dividing the Reserves revenues among the larger denominations of christians would be peculiarly acceptable to the Imperial Government. Respecting the larger denominations he says: (Despatch, Sept. 7, 1837) "their "exclusion from the benefit of a public provision "made for religious purposes would be quite inconsistent with the design of her Majesty's government. It is, on the contrary, the anxious "wish that to all such christian communities assistance should be afforded in proportion to "their numbers and to their necessities." This change in the Imperial policy on the subject of the Reserves follows so closely on the acceptance by five denominations, other than the Church of England, of state grants as to bear the appearance of being a direct consequence of their ready acceptance of the money, and their almost invariable promises to render in return the most obedient political services. Beyond the general intimation of its wishes, in the despatch of Lord Glenelg, the Imperial Government gave no specific instructions. Nor was this necessary: the hint given was sufficient for Sir Francis Bond Head. He proposed a division of the Reserves among the Churches of England, Scotland, Rome and the Wesleyan Methodists. The basis of the proposed division had no reference to the respective numbers comprised in these several denominations in the Province: it was to be coincident with the proportions which they relatively bore to one another in the Mother Country. Sir Francis submitted the proposition to Mr. Hagerman, who at once sanctioned the principle of division, but objected to the details. He could not become the advocate of the Church of Rome. He pleaded conscientious scruples. Sir Francis advanced such arguments as he might in favour of his scheme. Mr. Hagerman redoubled his objections. He declared he could not vote for the measure; but, in deference to Sir Francis, he promised not to oppose the admission of the Catholics to a share.

In this way the scheme was brought before Parliament: In the 1st Session of the Bond Head Parliament a bill to dispose of the Reserves for education had passed a 2nd reading in the Assembly. The House in committee of the whole on the Bill reported a resolution declaring the desirability of appropriating the lands and the proceeds arising

from the sales thereof to the religious and moral instruction of the people. It was on this occasion (Dec. 16, 1836) that Dr. Rolph made his celebrated speech * on the question, which for research, masterly elegance, and clear exposition of principle, has never been equalled by any oration delivered within the walls of a Canadian Parliament. He concluded by moving an amendment to the resolution reported by the Committee "That it is expedient to provide for the sale of the "Clergy Reserves, and the application of the pro- "ceeds to the purposes of general education, as "one of the most legitimate ways of giving free "scope to the progress of religious truth in the "community." But the effort was fruitless: eloquence wasted on a house composed of such materials as the recent elections had brought together. The amendment was lost by a vote of 34 against 12; and the original resolution was carried, on a division, by 35 against 21.* The resolution was communicated to the Legislative Council for their concurrence. They requested a conference with the House on the subject, and appointed Messrs. Crooks and Macaulay for that purpose. To this request the House acceded and appointed Messrs. Dr[illegible], Chisholm and Gowan to confer with the [illegible] of the Council. The object of the Council in desiring this conference was to explain their objection to the term "moral instruction" in the resolution of the Assembly: they dreaded that the House intended something more than a sectarian application of the revenues; but they were satisfied on learning that a specific measure of appropriation to exclusively sectarian purposes was intended. The scheme of division was introduced into the Assembly: it proposed to embrace the Church of England, the Presbyterians in connection with the Church of Scotland, the United Synod of Upper Canada, the Roman Catholics, the British and Canadian Methodists, and the Baptists. It was also proposed, in accordance with Lord Glenelg's suggestion to complete the rectory patents; to sell the reserves and divide the interest arising from the proceeds when the census should have been completed. The Solicitor General moved for leave to bring in a bill for carrying this scheme into effect; to which Dr. Rolph, seconded by Mr. Gibson, moved in amendment to add the following words: "and that the consideration of the "same be postponed till next session;" which which was carried on a vote of 21 against 20. Sir Francis Bond Head frankly admited that, finding he would have to encounter a feeling which he could not hope to control, he thought it prudent to abandon the attempt. He now resolved upon a measure for re-investing the lands in the Crown. The project was brought forward in the Assembly by Mr. Hagerman; but it was lost by one vote.†

* See Appendix.

† This statement is made on the authority of Sir Francis, but we find no corroboration of it in the Assembly's Journals.

The proposal to include the Baptists among the recipients was wholly gratuitous: they had not asked for, and we suspect would not have accepted any such assistance.

The division scheme derived no immediate countenance from the Presbyterians in connection with the Church of Scotland. The Synod again protested (Sept. 6, 1837) in a memorial to Lord Glenelg, against an appropriation of the Reserves revenues "in which their rights as min- "isters and people" were overlooked. They stood upon their legal rights: ignoring that "higher law" which existed antecedent to all Parliaments and all written laws, they saw no injustice in a partial distribution of these funds if they should only be the favored recipients. In Upper Canada there were eleven ministers of that Church who were said to have come to this country under the expectation that they would receive stipends from the government; but, who receiving no such aid, were "quite inadequately "maintained by their poor and scattered flocks." For these at least a temporary aid was implored. That Church declared itself totally destitute of any adequate self sustaining power, and humbled itself by the humiliating prediction that unless it were "supported as it ought to be by the government" the members would be driven from its connection, "and either left without moral "and religious instruction, or given over to the "guardianship of teachers generally illiterate and "self interested, dependent entirely on popular "support, and of course in danger of being actu- "ated more by principles that will advance their "own popularity, than the interests of their flocks "and of the community at large." How completely does the present flourishing condition of the Free Church in this Province, which seceded from the Church of Scotland, falsify this despondingprediction! The memorialists concluded by praying "that they might be invested with "all their just rights, as constituting one branch "of the Church of the empire:" an oblique but sufficiently significant condemnation of a scheme of division which included several Churches, and which bad as it was, was too liberal to suit the purposes of the grasping Church of Scotland. Lord Glenelg simply acknowledged the memorial, and referred the memorialists to a previous reply to a like application in which the legality of their claim had been distinctly admitted.

Sir Francis Bond Head left Canada on the 23rd of March 1838; bequeathing the settlement of the question to his successors; though the House to which his unconstitutional exertions had given birth was destined to carry a measure embodying a scheme of division.

Lord Glenelg did not abandon the idea of distributing the revenues among the different sects. It was now (Dec. 26, 1837) that he laid it down as a principle "that the contributions of the state "towards the support of the different christian "communions should be regulated by the extent "of the voluntary efforts which the members of "each made for the same general end." This

plan had been in operation in New South Wales. Lord Glenelg had become prejudiced in its favor; but when the principle was brought to a division in the Assembly in 1839, only 6 voted for and 37 against it.

The United Synod of the Presbyterian Church * not unnaturally regarded the proposal to divide the Reserves revenues with more favor than the other body of Presbyterians. They had no legal claim to prefer: on the contrary, their only chance lay in the scramble of division. They addressed a memorial to the King, (June 23, 1837) in which for the first time, so far as appears, they expressed a willingness to rest satisfied with the appropriation of the lands to education and public improvements; but if there was to be a denominational division they claimed an equal share with the rest of their fellow subjects. Reasonable as such a proposition may look, its effect was to invest with greater favor, in the eyes of the managers in Downing Street, the plan of division. Lord Glenelg had no reply to make, but to refer to his previous instructions on the subject. The "mildness" of this memorial drew forth the approbation of the Church of England Bishop of Toronto; and of praise from such a quarter the United Synod of the Presbyterian Church somewhat ostentatiously showed its pride. In another memorial (May 1, 1838) they showed how valuable were their political services, by assuring Her Majesty that not a single member of their congregations, scattered though they were over the whole Province, had been found in arms against the government during the rebellion, or brought under a charge of sedition or high treason. After describing the devoted loyalty which caused their people to rush to the posts of danger, in the depths of a Canadian winter, to quell an "uncalled-for, "wicked and unnatural rebellion," and of the services they had rendered in upholding British supremacy against republicanism, they modestly ask for an augmentation of the grant they received from government, in anticipation of the distribution of the Reserves revenues among the sects. It might be some time before that question was decided; and in the meantime seven of their ministers, who had recently joined the Synod, were receiving no government allowance. Lord Glenelg (Sept. 5, 1838) lauded the loyalty of the petitioners; but with many regrets assured them that they must remain content with the amount of the grant they already received pending the adjustment of the Reserves question; and tried to console them with the hope that so desirable a consummation was nearer than they supposed.

Sir George Arthur who acceded to the post of Lieutenant Governor of Upper Canada on the 23rd of March, 1838, had already resolved, on the meeting of Parliament, to cause a bill to be introduced for re-investing the Reserves in the Crown for denominational purposes.

In the last Session, that of 1837-38, an attempt had been made to re-invest the Reserves in the Crown for sectarian purposes, and although there was a majority in favour of that course, the bill introduced for the purpose was not pushed to a final reading. A bill was first introduced by Mr. Cartwright to re-invest the lands in the Crown, for denominational purposes; it was read a second time, and passed through the Committee of the whole. The question for receiving the Report of the Committee was carried by a vote of 29 against 12. The bill was dropped, however; and the house having gone into Committee on that part of the journals of the previous Session which related to the select Committee on the Reserves, reported a resolution in favour of selling the lands and devoting the proceeds, with those of the portion already sold, to "the support and maintenance of "the christian religion." Mr. Rykert moved in amendment that the proceeds be paid into the hands of the Rec'r-Gen'l, to be appropriated, from time to time, to such purposes as the Legislature should direct; which was lost, on a division, by a vote of 25 against 13. Another amendment proposed by Mr. Merritt, to appropriate the proceeds of 25,000 acres of the Reserves to the support of District Grammer Schools, was lost by one vote, there being 18 for and 19 against it. The original resloution was carried by a majority of four, the vote being 21 against 17. A bill, founded on the resolution, was introduced; but it never came to a second reading.

The burthening of the casual and territorial revenue with the sum of £7,295 for religious purposes was too much for even this high Tory Parliament. They addressed the Queen to transfer the charge to the Reserves revenue. This blow at Lord Goderich's scheme for bribing into acquiescence with his plans for aggrandising the Church of England, was only a kick at a dead lion. Lord Glenelg replied (May 25, 1838) that the charge should be transferred as the income from the Reserves increased; but that an immediate transfer of the whole would occasion a very great deficiency in the amount applicable to the support of those ministers who were paid out of the casual and territorial revenue.

The division on Dr. Rolph's motion, on the occasion of his memorable speech, was the first defeat the voluntaries met in the popular branch of the Upper Canada Legislature, on the question of secularising the protestant clergy lands; and it shows the importance of electing members whose principles are explicitly avowed on that point, and in whose avowals confidence may safely be placed. The stratagems of Sir Francis Bond Head had procured the return of a Parlia-

* This denomination must not be confounded with the United Presbyterian Church. The latter body never sought assistance from the government; but were under all circumstances true to the voluntary principle. Whenever, in these pages, reference is made to the Presbyterians not in connection with the Church of Scotland, it must be understood to mean the old United Presbyterians, which, with the exception of two Ministers, merged in the Church of Scotland some years ago, and not the United Presbyterians of the present day. The two parties were totally distinct; though from the similarity of their names there is great danger of confounding them.

ment, which. notwithstanding the professions of reform by many of its members in their doubtful incipiency at the polls, proved recreant to the great and equitable principle of voluntaryism. Nay, there were not wanting instances of palpable and unblushing treachery; of direct violations of hustings' promises to vote for the secularization of the Reserves. But these promises came from men, who from prejudice or interest, had hitherto cherished anti-voluntary sentiments, and who, now made them for the sole purpose of securing their return, and with the premeditated intention of breaking them. In his private letters to his brother, Lord Sydenham described as the cause of the rebellion, the discontent that grew out of the non-settlement of this question; and although we think he fell into the common error of attributing important events to a single cause, when there are many causes, the social evils which have resulted from the systematic attempt to establish, in connection with the state, a dominant Church, in this Province, have been of great and unquestionable magnitude. Many political questions have received an ecclesiastical taint; and of all others ecclesiastical questions are discussed with greatest rancour and bitterness. Of all the injurious effects of the system of sectional ecclesiastical ascendency which attempts have been made to establish in this Province, perhaps the greatest is the morose and anti-social temper of the public mind which has been induced. Interested persons had always sought to impress on the Imperial government the idea that the reserves constituted the only efficient breakwater against the tide of republicanism that washes our southern frontier; but history will tell that through the popular discontents to which they gave rise, these reservations, if they were not the sole cause of the rebellion, have constituted the greatest source of animosity and distrust against the imperial Government, and immensely weakened its moral influence in the Province.

CHAPTER XI.

The Episcopalians call for a judicial decision of the question—Sir Geo. Arthur recommends to Parliament a sectarian division of the Revenues, and in the event of the failure of this proposition the re-investing of the lands in the crown—Opposition to the scheme of division in the House—Varying success of the Divisionists and Voluntaries—The majority fluctuating from one side to the other and back again—Disingenuousness of Sir Geo. Arthur—The Imperial Government discovers constitutional objections to the re-transfer of the right of disposing of the Reserves to the Imperial Parliament and disallows the Bill—Governor General Thompson revives the scheme of Division, and carries a bill for that purpose—Prelatical Agitation—Important admissions of the Governor General.

The fears of the Episcopalians became alarmed at the prospect of the defeat of their monopoly claim, through a threatened distribution of the revenues among several of the larger denominations. That claim was again urged by the Episcopalian clergy in a memorial (Oct. 8, 1838) to Lord Glenelg, Colonial Secretary. They also prayed for a judicial decision of the question either by the Judges of England or the Judicial committee of the Privy Council; or, if this should be refused that an act might be passed by the Provincial Legislature re-investing the lands in the crown for the support of a Protestant Clergy, according to the spirit and intention of the Constitutional Act. This latter alternative went upon the assumption that the Provincial Legislature was the mere creature of the Colonial office, and not the representative of the Canadian people to whom it owed its existence. Lord Glenelg replied with resolute and impatient conciseness, that Her Majesty's Government had no reason to doubt the correctness of the opinion on the subject delivered, in 1819, by the Law Officers of the Crown, and did not consider it necessary to originate any new judicial proceedings: the opinion of the judges on the question was, however, subsequently obtained.

The Session of 1839 opened on the 27th Feb.; when the question was adverted to, in the Royal speech, by Sir George Arthur, in which he bore unwilling testimony to the evils which the reserves had inflicted on the country. "The "strongly excited feelings," the speech runs, 'to "which the long agitated question of the Clergy "Reserves has given rise in this Province, have "sensibly impaired that social harmony which "may be classed among the first of national bles-"sings, and have augmented the hopes of the "enemies of the country in proportion as they "have created division among its defenders." The speech admitted the importance of suffering no delay in the settlement of the question. But this appearance of ingenuousness was in fatal opposition to the pre-determined mode of proceeding to effect that object. The whole history of the question proved that its adjustment could not be satisfactorily effected by any such scheme of division as it was the intention of the governor to cause to be proposed; or by the alternative which proposed, in the event of the failure of the division scheme, to reinvest the lands in the Crown and refer their appropriation to the Imperial Parliament. To allay the agitation and discontents which disturbed the repose of the Province it was not sufficient to secure the concurrence of a packed Parliament in some scheme to which the sense of the people was notoriously opposed. Of this nature was the mode of settlement proposed by Sir George Arthur, in concurrence with the views of the Imperial Government; and the proceeding can only be regarded as a criminal trifling with the highest interests of the Province. The action of the packed Parliament on the subject, this session, exhibits an utter prostration of all principle. Many schemes were proposed for disposing of the lands for sectarian purposes, and after several failures the upshot of the affair was the passing of a bill pro-

viding for the sale of the lands and refering the question of the appropriation of the proceeds, for religious purposes, to the Imperial Parliament. A most determined opposition was offered to all the schemes of division proposed. The House was divided on every proposition, and at every stage of the various schemes; and even in this notoriously packed Assembly did the Voluntaries often carry their opposition to the very verge of victory; obtaining, in several instances, much larger majorities than their opponents; but the strangest feature in the case is the repeated fluctuation of the majority from one side to the other. One of the amendments, proposing the application of the funds to the support of general education, was lost by a bare majority of one, the vote standing 21 against 22. A proposal to devote them to religious and educational purposes was lost by a majority of four; the numbers being 19 against 23. A proposal to apply them to "public uses" was also lost by a majority of four; the vote being 19 against 23. While these motions were negatived by such small majorities, the Attorney General could obtain only eleven votes against 34 in favor of confiding the distribution of the monies to the unchecked discretion of the Governor in Council. A second proposal to apply them to the support of general education was negatived by a majority of only two; the vote being 21 against 23. Of the different bills on the subject, sectarian in their character, which were introduced into the Assembly, this session, the first was carried by a majority of four votes; the numbers being 24 against 20. On the question of receiving the Report of the Committee of the whole on certain amendments made to this bill by the Legislative Council, a motion again made, in amendment, to apply the reserves revenues to the "general uses" of the Province, was negatived by a majority of only two; the vote being 20 against 18. But the Divisionists were not always able to muster even such majorities as these, or majorities at all. A bill drafted by a committee of the House was reported by Mr. Rykert, to appropriate the reserves to "general purposes." It passed a second reading by a majority of five; the vote being 22 against 17. One sectarian amendment proposed to this bill was rejected on a vote of 39 against 5; another of a like description, by a vote of 38 against 5; and a third by 35 against 5. On the question for the third reading of the bill, several amendments were proposed by the advocates of a sectarian disposition of the lands. Finally a motion of Mr. Ruttan to recommit the bill prevailed. The committee amended the bill so as to appropriate the proceeds of the reserves for "religion "and education." A motion to expunge the amendment was lost by a majority of only three; the vote being 19 against 22. On the question for the passing of the bill the vote stood 21 against 21, and the question was carried in the affimative by the casting vote of the Speaker. The Legislative Council expunged the words "religion and education," and substituted "religious purposes." They also made another amendment, the effect of which was to transfer the appropriation of the revenues from the Provincial to the Imperial Parliament. The House concurred in these amendments by a vote of 22 against 21. It was by this vote* that so much of the question as remained was referred to England for settlement. But there remained nothing but a mere question of detail—the basis of the distribution among the religious denominations—the principle of distribution having been determined upon.

Such vascillation and utter negation of principle were surely never before exhibited by a Legislative body. One day a proposal for a Sectarian division of the funds is carried by a feeble majority. The next day, the Attorney General fails to obtain for his projects the support of one-fourth of the members of the House. Sectarian propositions are voted down by overwhelming majorities. A bill for appropriating the reserves to the general purposes of the Province makes it appearance, and passes a second reading by a respectable majority. It passes unmutilated in principle the ordeal of a committee of the whole. The question for the third reading comes on; when the House retraces its steps; recommits the bill for the purpose of negativing the very principle it had previously sanctioned at every stage of the measure! In this tortuous course it perseveres till the bill passes by a majority of one, at midnight, on the night preceding the prorogation. It is thus that a Sectarian division of the funds is, for the first time in the history of a Canadian Legislature, resolved upon; while the basis of the division is left to the determination of the Imperial Parliament. There have been breathed whispers of the exertion of undue executive influence in the passing of the bill; and to that cause has the vascillation of the House been attributed. This accusation against the impartiality of the Lieutenant Governor and the integrity of the Legislature derives some support from the fact that the Legislature adopted the very plan suggested by Sir George Arthur in his Speech on the opening of the Session. Contemplating the failure of all plans for distributing the funds among the sects, he says, "it will then only remain for you to * * "refer the appropriation of them [the reserves] "to the Imperial Parliament, as a tribunal free "from those local influences which may operate "so powerfully here." And his speech at the close of the Session expressed the highest satisfaction with the action of the Legislature on the question. Some few petitions had been presented to Parliament, in favor of a Sectarian division

* The following is the Division:—YEAS—Messrs. Attorney General, Boulton, Burwell, Cartwright, Dunlop, Elliot, Gamble, Hotham, Hunter, Kearnes, Lewis, Malloch, McCrae, McDonnell, (Northumberland,) M'Lean, Prince, Robinson, Ruttan, Shade, Sherwood, Solicitor General, Wickens,—22. NAYS—Aikman, Alway, Armstrong, Bockus, Caldwell, Cameron, Chisholm [Halton], Cook, Cornwall, Deltor, Ferrie, M'Cargar, M'Donell [Stormont], M'Intosh, Merritt, Moore, Parke, Rykert, Shaver, Small, Thompson,—21.

of the funds; but these in no way help to explain the vascillation of the House. A petition from the Roman Catholics, claiming from government pecuniary support for their religion, was signed by Bishop M'Donnell, of Kingston, the Right Rev. Remigius Gaulin, the Very Rev. P. Macdonald, the Very Rev. Angus Macdonell, Vicars General, thirty-two priests, and a large number of members of the Roman Catholic Church in Upper Canada. The number was stated in the title of the petition at eighty-six thousand five hundred; though the census of that year placed the entire number of Catholics, in the Upper Province, at only forty-three thousand and twenty-nine; a discrepancy for which the admitted inaccuracy of the census cannot fully account. One ground on which the petitioners based their claim was their forbearance to exercise their right to collect tythes from their own people in the Upper Province. The tythes which they claimed to have a right to collect are not a tenth but a twenty-sixth part of the grain. The memorialists claimed that theirs was the established religion of the province: this, together with their loyalty and military services, were the other grounds on which they rested their claims to pecuniary assistance. The Synod of the Church of Scotland was silent except on the subject of the clauses of the Constitutional Act which authorized the creation of rectories; and for the repeal of which they petitioned the legislature; but certain members of that denomination claimed that their Church should be admitted to a "full "participation with the Church of England in all "the benfits arising from the Reserves;" a style of treating the question which implied an objection to the proposal to include other Churches among the recipients of the Revenues.

Two members of the Legislative Council, Dr. Strachan and the Hon. J. S. Macaulay, entered on the journals their protest against the bill, alleging that the measure was subversive of the form of government existing in the Province, "inasmuch as an established church is part and "parcel of the Constitution of Great Britain."

Sir George Arthur attempted to deceive the Imperial Government into the belief that this measure would satisfy the Province; provided the contemplated action of the Imperial Parliament did not confine the distribution of the revenues to those denominations which the Lawofficers of the Crown had declared to be the only rightful participants. He urged the necessity of immediate action on the part of the Imperial Parliament; which he declared his belief was the only authority by which a settlement of the question could be effected; and stated "that any further "delay which may be suffered to occur in over-"coming its difficulties must inevitably produce "consequences the most hurtful to the common "peace and welfare of the community." How little likely the proposed plan of settlement would be to satisfy the Province and ward off the apprehended dangers might be seen in the mode in which every previous Assembly that had taken up the question had dealt with it; for there was no reason to suppose that public opinion had undergone any change in this respect. Beyond the successful electioneering jugglery of Sir Francis Bond Head there was nothing to give a colour to such a supposition; but it was the duty of Sir George Arthur to have represented to the Imperial Government the real opinion of the people on the question; and not from a factitious public opinion to have framed a pretext for recommending a mode for settlement which every previous Assembly had repudiated, and which had now only a majority of one in its favour.

Sir George Arthur had not succeeded in procuring the passage by the Legislature of Upper Canada of such a measure as had been suggested by the Imperial Government through Lord Glenelg. It was quite natural, therefore, that the bill sent home should not meet the views of the Imperial Cabinet. Lord John Russell replied (Despatch, Sept. 7, 1839,) that "the confirmation "of the bill would be productive of serious preju-"dice and of no substantial advantage." Indeed it should seem impossible that any one so well acquainted with the history of the question as his Lordship was could have come to any other conclusion. But he discovered constitutional objections (see chap. VIII) to the re-transfer from the Provincial to the Imperial Legislature of the right of appropriating the reserves; and on this ground the bill was disallowed by the exercise of the Royal veto.

But the scheme of division was not abandoned. C. P. Thompson, afterwards Lord Sydenham, who had been appointed Governor General, brought the question before the Upper Canada Legislature by Message (January 6) in the Session of 1839-40. He proposed that the lands should be sold and the interest arising from the funds be distributed among the various religious denominations. On the same day a bill for this purpose was introduced into the Assembly by the Solicitor General. It passed a second reading without a division. After three days discussion it passed through committee with some amendments. At its subsequent stages, the bill met considerable opposition; but all the amendments proposed were rejected, and most of them by large majorities. The third reading was carried in the Assembly by a vote of 28 against 20, * and in the Legislative Council by 13 against 6. The bill provided for the transfer of the proceeds of such of the Reserves as were already sold from the British Funds to Provincial securities, and the

* The following is the division:—YEAS—Messrs. Armstrong, Burritt, Chisolm (Halton), Chisolm (Glengarry), Cook, Detlor, Ferrie, Hotham, Hunter, Jarvis, Kearnes, Malloch, Manahan, Mathewson, McCargar, McCrae, McDonnell (Glengarry), McDonell (Stormont), McKay, McLean, Morris, Richardson, Ruttan, Shade, Shaver, Sherwood, Solicitor General, Wickins,—28. NAYS—Messrs. Aikman, Bockus, Boulton, Burwell, Caldwell, Elliot, Gamble, Gowan, Lewis, McIntosh, McMicking, Merritt, Parke, Powell, Robinson, Rykert, Small, Thompson, Thorburn, Woodruff,—20

investing in the latter of the proceeds to be received from future sales. The interest upon these investments, as well as that accruing from sales on credit, and all rents arising from such of the lands as were leased were to be paid to the Receiver General to form a Fund, out of which were to be paid, on warrants from the Governor, all stipends and allowances that had previously been assigned to the Clergy of the Churches of England and Scotland, or to any other religious denominations, in the Province, and to which the faith of the Government was said to be pledged, during the lives of the recipients. Until the annual fund became sufficient to meet these charges, the deficiency was to be paid out of the casual and territorial revenue; but when it should have so increased as to exceed the amount of these several stipends and allowances, and after they should have been discharged, one half of the fund was to go to the Churches of England and Scotland—the latter to include the United Synod of Upper Canada—to be divided between these Churches according to their respective numbers. The residue of the annual fund was to be divided among the other denominations of Christians, according to their respective numbers, to be ascertained by a census to be taken every four years.

Such was the scheme of division carried under the management of Poulett Thompson. In proposing to saddle the casual and territorial revenue, for a time, with charges for sectarian purposes, the Assembly stultified itself: only two years previously it had addressed the Queen praying to be relieved from like charges on that revenue. This bill failed to satisfy even those to whom it assigned the largest share of the funds—the Episcopalians. The Bishop of Toronto started an agitation against the bill, while it was before Parliament. In a circular to the clergy of his diocese, the bishop said of the bill, "It be-"gins with depriving the national Church of near-"ly three-fourths of her acknowledged property, "and then, as it would seem in mockery and de-"rision, offers her back a portion of her own, so "trifling that it would be totally insufficient to "maintain her present establishment." In addition to this, the bill was described in the circular as "endangering the cause of Protestantism," and trampling on the faith of the Imperial Government. A severe rebuke to this prelatical agitation was administered by the Governor General, who declared that "whatever may be the success "of the Bishop of Toronto in procuring signatures "to petitions, the opinions which his Lordship "holds upon the Clergy Reserve Bill are not "shared by the great majority of the communi-"cants of the Church of England." Lord John Russell also expressed his surprise "that the "Bishop of Toronto should see fit to engage in "this species of agitation. The recorded opin-"ions of his Lordship, as to the injury to society "and to the interests of religion which is likely to "spring from such a system of excitement, would "have justified the expectation that he would "have abstained from adopting it on this occa-"sion." Poulett Thompson did not attempt to disguise the fact that this bill was passed without the concurrence of the public opinion of the Province; while in effect he admitted that advantage had been taken of the existence of a packed Parliament, to procure a mode of settlement against which every previous Assembly, in dealing with the question had protested, and which no future Assembly would ever be likely to sanction. But we quote his own official language:

"*I will not conceal, however, from your Lordship that even to this Bill, thus proceeding on the principle of so general distribution among different religious persuasions, nearly insuperable objections have been and are entertained in this Province. For many years past the Representatives of the People have uniformly refused to assent to an appropriation of this Fund for religious purposes at all, and have steadily maintained its distribution to educational or State purposes;* and it is only the strong desire which is entertained of coming now to a settlement which has led many, who formerly advocated these opinions with success, now to withdraw their opposition and to assent to this measure. *But I can safely say, that so far as this Province is concerned their assent can never again be looked for.* I entertain no doubt that the course taken by many members of the Assembly in their conscientious and most laudable desire to put this question at rest will occasion great opposition to their return at the next election; *and I am satisfied that, in a future Assembly, if the matter were unfortunately again brought before it, it would not be possible to obtain any such terms for the Established Church, or for religious Instruction.*"—*Despatch to Lord John Russell*, Jan. 22, 1840.

The keen and sagacious Thompson clearly saw all the difficulties of the question. The great object of his mission to Canada was to effect an union of the Provinces. To prevent the transmission to the United Parliament of the irritations which the Clergy Reserves question had for years produced in Upper Canada he felt himself constrained to attempt some species of settlement; and he deceived himself into the belief that the scheme of dividing the revenue among the sects, which he succeeded in carrying, would have the desired effect. In proof of this we again quote his despatch of January, 1840:—

It [the Clergy Reserves question] has been for many years the source of all the troubles in the Province; the never-failing watchword at the hustings; the perpetual spring of discord, strife, and hatred. So universally is the truth of this proposition admitted, that I have scarcely met with one man of any party, or of any opinion with regard to the mode of settlement, who has not declared to me that it would be far better that these Reserves should be altogether taken away from the Province than that they should remain an object for contending parties to dispute about.

To leave this question undetermined, then, is to put an end to all hope of re-establishing tranquility within this Province, even should it remain under a separate Government; *but to establish the Union without a settlement of it, and to transfer the decision to the United Legislature, would be to add to the sources of discord which already unhappily prevail in the Lower Province an entirely new element of strife; for amongst the various evils by which Lower Canada has been visited one, and one only,—perhaps the greatest of all,—has been wanting,—religious dissension.*"

CHAPTER XII.

The Opinions of the English Judges—Lord John Russell desires the confirmation of the Sydenham Bill—The Bishops demand for the Church of England more favorable terms, which they dictate to the Imperial Government—The Imperial Bill; its injustice.

The arrival in England of the Upper Canada Clergy Reserves Bill of 1840, became the occasion of the most extraordinary tergiversation on the part of the Imperial Cabinet. The previous denials of Lord Glenelg and Lord John Russell of the right of Imperial Legislative jurisdiction over the question were now remorselessly ignored. The first action taken by the Imperial Cabinet on the Sydenham bill was to obtain the opinions upon it, and also upon the general question of the reserves including the extent of the power over them constitutionally vested in the Provincial Legislature, of the judges of England. The result of this appeal to the Bench of judges was to give to the question in some respects an entirely new aspect; and certainly on one point—the extent of the jurisdiction over the Reserves possessed by the Canadian Legislatures—the opinions pronounced were such as had never previously been conceived either by the Imperial Government or those Legislatures themselves: they had not entered the imagination of Bathurst or suggested themselves to the mind of any Canadian Governor, anxious as most of them had been to serve the cause of the sectaries, and especially of the Episcopalians. The following is a copy of the

Opinions of the Judges on the Questions propounded to them on the 13th of April, 1840.

(Delivered by the Lord Chief Justice of the Court of Common Pleas.)

My Lords,—

On the Part of Her Majesty's Judges I have the Honour to represent to Your Lordships that all the Judges of England, with the Exception of Lord Denman and Lord Abinger, have met together in Sergeant's Inn, for the purpose of taking into Consideration the several Questions which your Lordships have been pleased to propose to us; and that after Discussion upon the Subject, and Deliberation, we have agreed, unanimously, upon the Answers to be returned to those several Questions, as follows:—

In answer to the First Question, we are all of opinion that the words "a Protestant Clergy" in the Statute 31 Geo. III. c. 31. are large enough to include, and that they do include, other Clergy than those of the Church of England, and Protestant Bishops, Priests, and Deacons, who have received Episcopal Ordination.

For those Words, which are first to be met with in the Statute 14 Geo. III. c. 83. (recited in the Act now under Consideration,) appear to us, both in their natural force and meaning, and still more from the Context of the Clauses in which they are found, to be there used to designate and intend a Clergy opposed in doctrine and discipline of the Clergy of the Church of Rome, and rather to aim at the encouragement of the Protestant religion in opposition to the Romish Church, than to point exclusively to the Clergy of the Church of England. And although the Legislature, in passing the Statute 31st Geo. III., appears to have had in its view the establishment of the Church of England, primarily, and in a more especial and immediate manner, as is evident from this, that the only detailed provisions for carrying the object of the Act into effect are confined to the erection and endowment of parsonages and rectories according to the Establishment of the Church of England, the presenting thereto incumbent or Ministers of the Church of England duly ordained according to the Rites of the said Church, and the subjecting of them to all Spiritual and Ecclesiastical Jurisdiction and authority, according to the Laws and Canons of the Church of England which are lawfully made and received in England (Sections 38, 39, 40, of the said Act;) yet does it appear to us, that the Legislature, by employing the more general and comprehensive term "Protestant Clergy" in the same Statute in which they also use the Expression "incumbents or Ministers of the Church of England," must be intended to have included within the former and larger expression other Clergy beside those who are comprised within the limit of the latter.

And when your Lordships desire the Judges to state, if any other Clergy are included, what other? we answer, that it appears to us that the Clergy of the Established Church of Scotland do constitute one instance of such other Protestant Clergy.

For by the Act of Union of the two Kingdoms of England and Scotland it is made a fundamental article of such Union, "that the true Protestant Religion "as then professed within the Kingdom of Scotland, "with the Worship, Discipline, and Government of "the Church, should be effectually and unalterably "secured within the Kingdom of Scotland." And when a subsequent Act of the "British" Legislature, relating to the Government, Laws, and Religion of a "British" Colony, acquired by conquest since the Union, and forming Part of the Dominions of the "British" Crown, employs, with reference to that Colony, the Terms "a Protestant Clergy," there being no words in the Statute which necessarily restrain and limit the meaning of the expression, we think it must be held to include the Clergy of the Protestant Church established in Scotland; and we feel ourselves confirmed in this opinion by observing that on several occasions the precise expression is to be found in the Statute Book, "the Clergy of the Established Church of Scotland." The 48 Geo. III. c. 138. in its very Title mentions "the Clergy of Scotland." In the 50 Geo. III. c. 84. "the rights and interests of the Clergy of Scotland" are repeatedly spoken of; and in the 5 Geo. IV. c. 72. s. 7. a Reference will be found to several Acts of Parliament which make mention of the "Poor Clergy of the Established Church of Scotland."

And although in answering your Lordships' question we specify no other Church than the Protestant Church of Scotland, we do not thereby intend that besides that Church the Ministers of other Churches may not be included under the term "Protestant Clergy." At the same time, as we do not find on the Statute Book the Acknowledgment by the Legislature of any other Clergy answering that description, and as we are not furnished by your Lordships with any information as to the doctrine or discipline of any other denominations of Protestants to which the Statute of the 31st Geo. III. can by possibility apply we are unable to specify any other to your Lordships as falling within the Statute.

My Lords,—In answer to the Question secondly put to us, we are all of opinion that the effect of the forty-first Section of the Statute is prospective only, and that the power thereby given to the Legislative Council and Assembly of either of the Provinces cannot be extended to affect Lands which have been already allotted and appropriated under former Grants; for the manifest import of the forty-first Section appears to us to be limited to this, namely, "the varying or "repealing the Provisions respecting the allotment "and appropriation of Lands," and not to comprehend "the varying or repealing allotments or appro- "priations which have been already made under pro- "visions of the Act, whilst such Provisions continued "unrepealed and in full force." The provisions of the Statute of Wills might be varied or repealed without affecting the devises of Land already made under it.

My Lords,—In answer to the question lastly proposed, we all agree in the opinion that the Legislative Council and Assembly of the Province of Upper Canada have exceeded their authority in passing the Act "to provide for the sale of the Clergy Reserves, "and for the distribution of the proceeds thereof," in respect of "both" the enactments specified in your Lordships question. As to to the enactment "that "it should be lawful for the Governor, by and with "the advice of the Executive Council, to sell, alienate, "and convey in Fee Simple all or any of the Clergy "Reserves," we have, in answer to the second question, already stated our opinion to be such, as that it is inconsistent with any such power in the Colonial Legislature; and as to the enactment "that the pro- "ceeds of all past Sales of such Reserves, which have "been or may be invested under the authority of the "Act of the Imperial Parliament passed in the 7 & "8 Geo. IV. for authorizing the Sale of part of the "Clergy Reserves in the Provinces of Upper and "Lower Canada, shall be subject to such orders and "directions as the Governor in Council shall make "and establish for investing in any securities within "the Province of Upper Canada the amount now "funded in England, together with the proceeds "hereafter to be received from the Sales of all or any "of the said Reserves," we think such an enactment is in its terms inconsistent with and contradictory to the provisions of the Statute of the Imperial Parliament 7 & 8 Geo. IV., and therefore void, there being no express authority reserved by that Act to the Colonial Legislature to repeal the Provisions of such latter Statute.

In these opinions of the judges two points are comprehended.

First, that the Reserves were not intended exclusively for the Church of England; but that the Church of Scotland had a right to share them; and that although other Churches might be included, the judges were unable to specify any.

Secondly, that the Provincial Legislature has no power to dispose either of the lands or the funds arising from the sale thereof.

As to the first point, it is very loosely put; the problematical style of expression adopted leaving the question just where it was before. It cannot be denied that to the Imperial Government, when it proposed legislation on the doubtful point, this was a very convenient latitude. The case was precisely in that equivocal state that left ministers the discretion of acting as they should see fit, so far as the legal aspect of it was concerned; and had no question of expediency or state policy suggested itself to the mind of Her Majesty's ministers it is not improbable that the entire fund might have been divided between the Churches of England and Scotland. But while the Imperial Government resolved to risk the effect of a more general scheme of distribution, they were evidently convinced, not merely by the assurances of Sir George Arthur, but from the manifest temper of the public mind, that no such narrow scheme of division promised even the faintest hope of success.

The value of a judicial opinion which has been violated in any one point, for the sake of convenience, becomes very questionable in public estimation, if, as in this case, the parties who procured it are the first to set it at defiance. And even though its intrinsic value should not be called in question, if the right to contravene it in one point is practically declared by the action of the Legislature, it can no longer be considered binding in other points in respect to which no such contravention has been deemed desirable, any more than could the validity of an international treaty be held by one nation that claimed the right to violate some of its provisions, binding on another nation, when both had been parties to its adoption, and both equally bound to obey all its provisions. The bad faith of one of the parties to such an engagement would release the other from all obligations in respect to it. So it is with the opinions of the judges on this question. They are either binding on both the Provincial and the Imperial Legislatures, or they are binding on neither. If in any one point they are contravened by the one, they can no longer be held to impose any obligation on the other. The Imperial Government—as we shall afterwards see—by contravening the opinions of the judges so far as to admit the Roman Catholics to share—and on moral grounds such admission would be justifiable if any division could be, which we deny—in the reserves revenues. How then can these opinions, in other respects, after this, be held binding on the Canadian Legislature? A judicial decision of which the Imperial Government should claim all the advantages of the violation, and subject us to all the disadvantages of its observance, would become an instrument of gross injustice. The conclusion is inevitable that, in consequence of the contravention, in one point, of this judicial decision, we are morally released from any obligation which it might otherwise have imposed upon us, and should be justified, apart from all considerations of policy, in treating it as non-existent. We should then stand on the same ground, in respect of legislative jurisdiction, that we had always previously occupied. That ground was the conceded right of Provincial legislation over the question. Whether the subsequent action of our Legislature has placed the question in any different position is another matter.

The first intention of Lord John Russell seems to have been to sanction the Upper Canada bill of

1840. When the Union bill was under consideration in the House of Commons, the debate branched out so as to embrace the general affairs of the Province: the following views were elicited on the subject of the Sydenham bill:

"Lord John Russell said in reference to the U. Canada bill that it was likely to give general satisfaction. There could be no doubt that a strong feeling existed on this subject in Canada, so much so that the partial insurrection which took place in 1837, had been ascribed by many persons far more to the excitement prevailing on this question than to any wish to throw off allegience to the Crown. There were various feelings on the subject, but they were all united against the application of the Clergy Reserves exclusively to the support of the Church of England.

"Mr. Hume said the noble lord was mistaken in supposing that the Clergy Reserves Bill, obtained from a packed Parliament, would settle discontent in Canada. The question ought to have been left for the United Legislature. All the bloodshed and difficulty in Canada would have been spared if Lord Glenelg had listenced to those who could have laid the real state of the colony before him. But there was a principle at work at the Colonial Office which Mr. Hume declared it impossible for him in any way to explain.

"Sir Robert Inglis [the champion of the High Church party] protested against Mr. Hume's proposition to allow the Assembly to settle the Clergy Reserves question, which they had nothing whatever to do with. The land was not their property, but belonged to the Church. He objected to the measure therefore as being founded on the greatest injustice.

"Sir Robert Peel begged to ask Lord John Russell what was proposed with respect to the Clergy Reserves in Lower Canada, and the noble lord replied they would be dealt with by the United Legislature, subject to the Act of 1791, but he believed an Act of the British Parliament would be requisite to transfer to Canada that part of the fund invested in England."

But Lord John Russell found himself at the mercy of the Archbishop of Canterbury and the Bishop of London; and was compelled to accept such terms as they chose to dictate. The result was the disallowance of the Bill passed by the Upper Canada Legislature, and the substitution for it of another which became law, and is now in force. The *Annual Register* for 1840 contains the following information relative to the passing of the Bill and the terms dictated by the Bishops to the Imperial Government:

"The bill introduced by Lord John Russell for the sale of the Clergy Reserves passed without any great opposition both Houses of Parliament. With regard to the distribution of the proceeds of the sales, the Archbishop of Cantebury and the Bishop of London, who were empowered by law to act for the Colonial Church in these matters, showed their willingness to facilitate the settlement of the question by the cession of a part of the rights to which under the act of 1791 they considered themselves entitled. And the proposition of the primate to Lord John Russel on the subject was thus stated: 'That as re-'gards the one-fourth already sold, and the pro-'ceeds of which were vested in this country, 'the whole amount should be considered as be-'longing to the Churches of England and Scot-'land in the proportion of two to one, and of 'the remaining three-fourths, one half should be 'considered as belonging to the Churches of 'England and Scotland in the proportion of 'two to one, and with regard to the other half of 'the three-fourths, the prelates at the head of the 'English Church would be willing to listen to 'such a proposition as the government on con-'sideration might suggest.' Lord John Russell stated on a subsequent occasion that he proposed to leave this half of the three-fourths to the disposal of the Governor General of Canada and the Executive Council for the purpose of religious worship and education."

Here was a humiliating position for a government to be placed in! Lord John Russell was desirous to confirm the Upper Canada bill of 1840; and stated his belief "that it would give general satisfaction." In the previous year he had pronounced unconstuitional the re-transfer of the right of disposing of the reserves to the Imperial Parliament. On this point he might indeed plead in excuse the adverse opinions of the judges; but even on that supposition Her Majesty's government must plead guilty of lamentable ignorance as to the law of the case. The real difficulty was however that the Sydedham bill did not please the Archbishop of Canterbury and the Bishop of London, who resolved to obtain more favourable terms for the Church of England. They presented their proposal to Lord John Russell and the minister found himself compelled to succumb. The following is a copy of the Imperial Act thus passed at the dictation of the English Bishops:

ANNO TERTIO & QUARTO.

VICTORIÆ REGINÆ.

CAP. LXXVIII.

An Act to provide for the Sale of the Clergy Reserves in the Province of Canada, and for the distribution of the proceeds thereof.

[*7th August*, 1840.]

Whereas it is expedient to provide for the final disposition of the Lands called Clergy Reserves in Canada, and for the appropriation of the yearly income arising or to arise therefrom, for the maintenance of religion and the advancement of christian knowledge within the said Province; be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in the present Parliament assembled, and by the authority of the same, That after the passing of this act it shall be lawful for the Governor of the Province of Canada, by and with the advice of his Executive Council, and under such regulations as may be by him from time to time in Council established in that behalf, and approved by the Queen in Council, to sell, grant, alienate, and convey in Fee Simple all or any of the said Clergy Reserves: Provided nevertheless, that the quantity of the said Clergy Reserves so to be sold as aforesaid in one year shall not in the whole exceed one hundred thousand acres, without the previous approbation in

writing of one of Her Majesty's Principal Secretaries of State.

II. And be it enacted, That the proceeds of all past sales of such Reserves which have been or shall be invested under the authority of an act passed in the Eighth year of the reign of King George the Fourth, intituled *An Act to authorise the sale of part of the Clergy Reserves in the Provinces of Upper and Lower Canada*, shall be subject to such orders as the Governor in Council shall make for investing, either in some Public Funds in the Province of Canada, secured on the Consolidated Fund of the said Province, or in the Public Funds of Great Britain and Ireland, the amount now funded in England, together with the proceeds hereafter to be received from the Sales of all or any of the said Reserves, or any part thereof: Provided always, that the necessary expenses of such sales shall be borne and defrayed out of the first monies received therefrom.

III. And be it enacted, That the interest and dividends accruing upon such investments of the proceeds of all Clergy Reserves sold or to be sold, and also the interest to accrue upon Sales on credit of Clergy Reserves, and all rents arising from Clergy Reserves that have been or may be demised for any term of years, shall be paid to the Receiver General of the Province of Canada, or such other Person as shall be appointed to receive the Public Revenues of the said Province, and shall together form an annual Fund for the purposes hereinafter mentioned, and shall be paid by him from time to time in discharge of any warrant or warrants which shall from time to time be issued by the Governor, in pursuance of the provisions of this act; that is to say,) in the first place, to satisfy all such annual stipends and allowances as have been heretofore assigned and given to the clergy of the churches of England and Scotland, or to any other religious bodies or denominations of christians in Canada, and to which the Faith of the Crown is pledged, during the natural lives or incumbencies of the parties now receiving the same: Provided always that until the annual Fund so to be created and deposited with the Receiver General shall suffice to meet the above-mentioned stipends and allowances, the same, or so much thereof as the said Fund may be insufficient to meet, shall be defrayed out of the casual and territorial revenue of the Crown in the Province of Canada.

IV. And be it enacted, That as soon as the said Fund shall exceed the amount of the several stipends and allowances aforesaid, and subject always to the prior satisfaction and payment of same, the said annual Fund shall be appropriated as follows: (that is to say,) the net interest and dividends accruing upon the investments of the proceeds of all sales of such Reserves sold under the authority of the before-recited act of the Eighth Year of the Reign of King George the Fourth shall be divided into three equal parts of which two shall be appropriated to the Church of England and one to the Church of Scotland in Canada: and the nett interest and dividends accruing upon the investments of the proceeds of all Sales of such Reserves sold under the authority of this act shall be divided into six equal parts, of which two shall be appropriated to the Church of England and one to the Church of Scotland in Canada: Provided always, that the amount of the before-mentioned stipends and allowances which shall be paid to and received by any clergyman of either the said Churches of England or Scotland shall be taken, as far as the same will go, as a part of the Share accruing to each Church respectively by virtue of this act; (that is to say,) the stipends and allowances to any clergyman of the Church of England, as part of the share accruing to the Church of England, and the stipends and allowances to any clergyman of the Church of Scotland as part of the share accruing to the said Church of Scotland, so that neither of the churches shall receive any further or other sum beyond such respective stipends and allowances until the Proportion of the said annual Fund allotted to them respectively in manner aforesaid shall exceed the annual amount of such stipends and allowances.

V. And be it enacted, That the Share allotted and appropriated to each of the said Churches shall be expended for the support and maintenance of public worship and the propagation of religious knowledge, the Share of the said Church of England being so expended under the authority of the "Society for the Propagation of the Gospel in Foreign Parts," and the share of the said Church of Scotland under the authority of a Board of nine Commissioners, to be elected by the Synod or Synods of the Presbyterian Church of Canada in connexion with the Church of Scotland, under such regulations as shall be from time to time established by the Governor of Canada, with the Advice of his Executive Council.

IV. And be it enacted, That the Share of each of the said Churches shall be paid by the Receiver General or other Person appointed as aforesaid in discharge of any warrant or warrants which shall from time to time be issued by the Governor of the said Province in favour of the Treasurer or other Officer who shall be respectively appointed to receive the same by the said Society on behalf of the said church of England, and by the said Commissioners on behalf of the said Church of Scotland.

VII. And be it enacted, That, subject to the foregoing provisions, the residue of the said annual Fund shall be applied by the Governor of Canada, with the advice of the Executive Council for purposes of public worship and religious instruction in Canada.

VIII. And be it enacted, That the Receiver General or other person appointed as aforesaid to receive the interest and dividends accruing from the investment of the proceeds of all Clergy Reserves sold or to be sold shall, on or before the Fifteenth Day of January in every year, deliver to the Governor a certificate in writing under his hand of the net amount which in that year will be applicable to the several churches of England and Scotland out of the said Fund under the provisions of this Act; and whenever the sum mentioned in any such certificate to be applicable to the Church of England in Upper Canada shall be less than seven thousand seven hundred pounds, or the sum mentioned in the certificate to be applicable to the Church of Scotland in Upper Canada shall be less than one thousand five hundred and eighty pounds, the deficiency in each case shall be made good out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, and shall be charged thereupon at the Quarter Day next ensuing the receipt of such certificate at the Treasury; and the Lord High Treasurer, or three or more Commissioners of Her Majesty's Treasury of the United Kingdom of Great Britain and Ireland, shall be authorized by their warrant to direct the issue of the sums needed to supply such deficiency in the following manner: (that is to say,) such sum as shall be needed to supply the deficiency of the said sum of seven thousand seven hundred pounds to such person or persons as shall be appointed to receive the same by

the Society for the Propagation of the Gospel in Foreign Parts, and such sum as shall be needed to supply the deficiency of the said sum of one thousand five hundred and eighty pounds to such person or persons as shall be appointed to receive the same by any writing under the hands of any three or more of the Commissioners under whose authority the Share of the Church of Scotland is to be expended as aforesaid; and all sums so paid out of the Consolidated Fund shall be severally applied, under the authority of the said Society and of the last mentioned Commissioner respectively, for the support and maintenance of public worship and the Propagation of Religious Knowledge in each of the said churches in Canada.

IX. And be it enacted, That accounts of the Expenditure of every sum of money so to be received out of the said annual Fund, or out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, by the said Churches of England and Scotland, or by any other religious body or denomination of Christians respectively, under the authority of this act, shall be, on or before the twentieth day July in each year, rendered to the Governor of the said Province in Council; and that until such accounts shall have been rendered, and the due and proper Expenditure of the sum granted during any preceding year shall have been established to the satisfaction of the Governor of the said Province in Council, no other or further sum or proportion of the said annual Fund shall be paid or allowed to any or either of the Churches, Religious bodies, or denominations of Christians failing, neglecting, or refusing to render such account, or to verify the same as required; and that copies of such accounts shall annually be laid before the Legislature of the said Province.

X. And be it enacted, That whenever there shall appear to the Governor of the said Province in Council sufficient reason to apprehend that there has been any misappropriation or non-appropriation of any sum or sums of money paid to any of the said Churches, Religious bodies, or denominations of christians, out of the said annual Fund, or any neglect or abuse in the expenditure or management of any such sum or sums, upon direction for that purpose given by the Governor, it shall be lawful for the Attorney General to apply summarily, either by Petition, or Information to or in the Court of Chancery in Upper Canada, or to any one of the Superior Courts of Record in Lower Canada, setting forth the nature of the abuse apprehended, and praying Discovery and relief in the Premises, as the nature of the case may require.

XI. And be it enacted, That from and after the passing of this act, so much of an act passed in the Twenty-first year of the Reign of King George the Third, intituled, "An act to repeal certain parts of an act passed in the 14th year of His Majesty's Reign, intituled, "An act for making more effectual provision for the Government of Province of Quebec in North America, and to make further provision for the Government of the Province," as relates to any Reservations of Land hereafter to be made in Upper or Lower Canada for the support and maintenance of a Protestant Clergy, shall be repealed.

XII. And be it enacted, That in this Act the words "Province of Canada," shall be taken to mean the Province of Canada as constituted under an act passed in this Session of Parliament, intituled, An act to re-unite the Provinces of Upper and Lower Canada and for the Government of Canada; and the word "Governor" shall be taken to mean and include the Governor, Lieutenant Governor, or other person administering the Government of the Province of Canada.

XIII. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this Session of Parliament.

In the passing of this Act the Bishops secured greater advantages for the Church of England than the Upper Canada bill had given. They gained an advantage not only over the Church of Scotland, but also over the other recipient denominations. Under the Sydenham bill the Churches of England and Scotland were not secured the revenue from the funded proceeds of all past sales, as they are under the existing Imperial Statute; and the Church of England was to share with the Church of Scotland equally, according to their respective numbers, one half of the annual revenue after paying the stipends and allowances to those ministers to whom "the faith of the "Crown was pledged;" but now instead of an equal division to this extent, the Church of England receives relatively to the Church of Scotland in the proportion of two to one; an inequality of distribution not justified by the disparity of numbers in the two Churches, for the Free Church disruption had not thined the ranks of the Church of Scotland when the Imperial Act was passed. It is probable, indeed, that the sagacious bishops were misled by the inaccuracies of the Upper Canada Census of 1839, which stated the numbers of the Church of England at 79,754, and those of the Presbyterians at 78,383, without distinguishing from the Church of Scotland and the United Synod of Upper Canada the United Presbyterians, the aggregate numbers of the three denominations being about equal to those of the Church of England. Had the Free Church secession been forseen, the Sydenham bill would not have been quite so obnoxious to the English bishops; for in proportion as the numbers of the Church of Scotland were reduced so much the greater would have been the share of the Episcopalians on a plan of division which proceeded upon the respective numbers of the two bodies. But notwithstanding the realized contingency of a disruption in the Church of Scotland, the scheme of the bishops undoubtedly secures to the Church of England a larger share than they would have obtained under the Sydenham bill. But even that Bill, as well as the one that was substituted for it, was grossly unjust in the basis of distribution it proposed. The numbers of the two churches of England and Scotland united were only about one third of the entire population.* The census for 1839 gave the following as the num-

* This is in Upper Canada. In Lower Canada the Churches of England and Scotland comprise a little over one-tenth of the entire population, the numbers being, in 1844, Churches of England and Scotland, 70,2[illegible]; entire population, 678,490.

bers of the different denominations in Upper Canada:—

Church of England	79,754
Methodists of all denominations	61,088
Presbyterians do	78,383
Roman Catholics	43,029
Baptists of all denominations	12,968
Miscellaneous	22,806
No Profession	34,766
Total	332,758
Deficiency as compared with the entire population	67,558
	400,346

If we deduct from the aggregate numbers of Presbyterians the denomination which has no connection with the Church of Scotland, and which has always refused pecuniary assistance from the State, the numbers of the Churches of England and Scotland combined will be reduced to a little over 130,000 or one third of the entire population; and yet to these two churches the Imperial Act of 1840 assigns the interest on the proceeds of all the reserves sold previous to that date—about one-fourth of the whole—and one half of the interest on the proceeds of those sold since 1840: in other words, *these two churches comprising about one third of the population*, at the time of the passing of the Imperial Bill, were *assigned nearly three-fourths of the Clergy Reserves revenue*. If we extend our analysis to the year 1850, the result will be about the same. The census of that year thus gives the denominational statistics for Upper Canada:

Methodists	147,758
Baptists	31,195
Church of Scotland	63,792
Free Church and Secession	97,224
Church of Rome	130,156
Church of England	182,622
Lutherans	10,292
Quakers	6,279
Independents	5,824
Unitarians and Universalists	3,538
Jews	262
Other Creeds	19,607
No Fixed Religion	43,251
Unaccounted for	58,043
Total	799,847

The Churches of England and Scotland, taken together, number only 246,415, which is less than one-third of the whole population, while they receive nearly three-fourths of all the reserves revenue. We are at a loss to understand on what grounds any party can justify the present arrangement. Certainly not on those generally assumed by the High Church party; for if the Church of England had been entitled to the whole of the property, on what principle have others been admitted to a share? If we assume as correct, the opinion of the law officers of the Crown that the term "Protestant Clergy" includes no other than the Clergy of the Churches of England and Scotland, the same question recurs. And if the principle of division be justifiable on any grounds, the basis of it ought to be equality among the different denominations; each receiving in proportion to its numbers. But we go farther: we deny the possible justice of any denominational division of these revenues; and were this not the case we should deny the expediency of such a distribution. The various religious denominations are not agreed as the propriety of receiving pecuniary assistance from the state: some refuse from conscientious motives to accept such assistance: these number a large proportion of the entire population. State favors to the others, who hold different views, are at the expense of these; and hence the injustice of the policy which grants such favors. But were there no injustice as between the different denominations, the inexpediency of such grants would be sufficient to condemn them. For the State to take the priesthood into its pay is to destroy the independence of the church and corrupt its ministers. The Church ceases to be an independent power: for while it leans for support upon the State it must bow to the dictation of the same power.

The only good feature of the Imperial Act is that it prevents any more reserves being made.

Perhaps the worst feature connected with the passing of the Imperial Bill of 1840 is the demonstration of a predominent sacerdotal influence that overruled the deliberate decisions of the British ministry; foreshadowing, as it does, the more than possible re-exertion of that influence when the question again comes before the Imperial Parliament. That there is nothing to fear from this source we dare not persuade ourselves; and we cannot contemplate without the profoundest emotions of apprehension and alarm the possible results to the Empire of a reckless prelatical interference in this question, which for a quarter of a century has been the source of an acrimonious and unceasing agitation in the Province.

CHAPTER XIII.

Aggressive movement of the Episcopalians repulsed by a Tory House—£1,800 for all comers—Movements in the House—Dispute as to the mode to be adopted in opening up the question—The present position of the question.

Some time elapsed before the cancelling of the Sydenham bill, and the substitution of an Imperial Act, passed at the dictation of the Bishops, became generally known in Canada. By that large proportion of the Canadian population who belong to neither of the favoured churches the subterfuge was condemned; and in 1844 the agitation directed against the Imperial Act with a view to the secularization of the lands had become popular with the Reform party. The Episcopalians took the alarm, and, in 1846, they petitioned the Legislature to invest

in the Church Society the management of a portion of the Reserves equal to that to the proceeds of which they were entitled by the Imperial Act. A proposition in harmony with the prayer of the episcopalian petitions was introduced into the Assembly by Mr. H. Sherwood, who stated that the Church Society were willing to abandon their desire to lease the lands, and bind themselves to effect a sale of the portion of which they claimed the management, under certain restrictions to be imposed by the government, and within a given term of years; but no such conditions or restrictions were contained in the address which he proposed for the adoption of the House. But even in this Tory Assembly, Mr. Sherwood's proposition was rejected by a vote of 37 against 14. *

This is the upshot of a movement that commenced in 1844. In that year a committee of the House of Assembly reported in favour of granting the Episcopalian demand. Sir Charles Metcalfe backed that recommendation in despatches to the Imperial Government. Lord Stanley, who was then Colonial Secretary, listened without reluctance to the proposition. In February, 1846, he directed Earl Cathcart to inquire into several matters connected with the management of the reserves; and, if his opinion should be adverse to that of Sir Charles Metcalfe, he was required to report to the colonial office the reasons on which it was founded. An alteration was required to be made in the Act of Union; and, if it were decided to grant the demand of the Episcopalians, it was the intention of Lord Stanley to bring both questions under the consideration of the Imperial Parliament at the same time. The despatch of Lord Stanley was brought under the consideration of the Provincial Executive Council; this being one of the cases which Sir Charles Metcalfe considered of "adequate importance" to be submitted to their judgment. In April, 1846, a minute of council was adopted, recommending the stoppage of the sales of Clergy Reserves, on the ground of their alleged undervaluation, by the commissioners appointed for that purpose in 1843. A circular was sent to the Crown Land agents in the several districts of the Province, ordering them to "suspend" all sales of Clergy Reserves. The circular gave as the reasons that had influenced the Provincial Executive to take this course, the alleged undervaluation of the lands, and the receipt of a despatch from the Imperial Government. Strange to say, the head of the Provincial Cabinet, when interrogated on the subject in the House of Assembly, denied that any such despatch had been received; thus discrediting one of the statements given in the circular of the Crown Lands Department of the reasons that had induced the Executive to "suspend" the sales. The truth is, both statements were incorrect. There had been received a despatch from Lord Stanley, dated February 28, 1846; although Mr. Draper ventured to deny its existence. But that despatch did not, as the circular had intimated, authorize a stoppage of the sales. On the contrary, it instructed Earl Cathcart to suggest in what way it would be possible to increase the annual amount of the sales beyond the legal maximum of 100,000 acres a-year; and the Provincial Executive were required, in adjusting the quantity to be sold, to exercise a discretionary power. It is but too evident that the stoppage of the sales was made with the view of furthering the scheme of the Episcopalians for getting the lands into their possession; and, failing that, by an increase of the price of the lands they would be able to augment the annual amount payable to that denomination. The price of the lands was raised; and, in many instances, it was alleged, in violation of the conditions on which settlers had entered on them. The increase amounted to from 25 to 125 per cent. on the valuation placed on them by commissioners specially appointed in 1843 to appraise the lands. The government, however, had not the courage to attempt to carry into effect what they most desired—the vesting of the lands in religious corporations. They would not assume the responsibility of advising Earl Cathcart to recommend to the Imperial Government an alteration of the Act of 1840 for that purpose. Earl Cathcart had the manliness not to be misled by the report of the committee of Assembly of 1844, as it had not been adopted by the house; and to assure Lord Stanley that a very strong feeling existed against the proposed disposition of the lands.

Thus ended the first attempt of the Episcopalians to disturb the present "settlement;" and its failure shows how hopeless are the chances of the High Church party to carry out an aggressive policy in respect to the Reserves. On this occasion Messrs. Baldwin and Price allowed themselves to be betrayed into an admission that the Imperial Act should be regarded as a final settlement of the question; an admission which has subsequently been used by the High Church party as evidence that the Upper Canada Liberals were originally satisfied with the conditions of the Imperial Act of 1840. But it is obvious that no such incidental admission could be regarded as an exposition of the views of the political party of which these gentlemen were members; much less can they be supposed, at this day, to impose any obligations on those who are now or may hereafter be, entrusted with the exercise of political power, in the Cabinet or the Legislature.

* The following is the division on the amendment for getting rid of Mr. Sherwood's motion:—

YEAS,—Messrs. Baldwin, Boutillier, Cauchon, Chabot, Chauveau, Christie, Cummings, Daly, Desaunier, DeWitt, Drummond, Gowan, Guillet, Hall, Jessup, Lafontaine, Laterriere, Leslie, Macdonald (Glengarry) Macdonald (Kingston,) Macdonnell (Stormont,) Mc Connell, Methot, Morin, Nelson, Papineau, Petrie, Price, Seymour, Smith (Frontenac,) Smith (Missisquo) Smith (Wentworth,) Stewart (Bytown,) Tache, Tachereau, Viger, Williams.—37.

NAYS,—Boulton, Cayley, DeBleury, Draper, Duggan, Ermatinger, Foster, Macdonnell, (Dundas,) Moffat, Menro, Robinson, Sherwood, (Brockville,) Sherwood (Toronto,) Watts.—14.

The one-half of the proceeds of the Reserves sold under the Act of 1840, to be distributed by the governor in council for the "purposes of public worship and religious instruction," had accumulated till, in January 1848, it reached £1,800 currency. On the 19th of that month a notice appeared in the Official Gazette that any religious body in Upper Canada desirous of receiving a share of this fund were to make application to that effect to the Clerk of the Exective Council, before the first of July then next ensuing. The applicants were required to state whether they intended to apply the share that might be allocated to them to the purposes of religious worship or religious instruction, and also to state, as near as possible, the number of persons belonging to their communion. The only two Churches that responded to this invitation were the Wesleyan Methodist and the Roman Catholic. The Wesleyan Methodist Conference referred to their exclusion from participation in the Reserves revenues in the language of complaint, contrasting the extent and usefulness of the labours of their Church with those of the denominations who were in the enjoyment of those revenues. The three objects to which they intended to apply the share that might be allotted to them were thus stated by the conference. "The relief of distressed Churches, and Parsonages, and the theological instruction of young men who have been recommended, examined and received as candidates for the christian ministry." Angus McDonell in his application on behalf of the Roman Catholics, stated that it was their intention to apply their share towards the free education o young men in the College of Regiopolis. Individual applications were made by persons belonging to other Churches. These comprised a Moravian Minister of New Fairfield or Moraviantown, Lutherans of the villages of Preston and Waterloo, Lutherans of the townships of Woolwich and Wellesley, Lutherans of the Eastern District, Ministers, Elders, and Trustees of the Free Church of Ramsay, Free Church congregation of Berwick, Elders and visiting Committee of the joint congregation [what Church is not stated] of South Gower, Oxford and Mountain, congregation of the Presbyterian Church of Canada, Bellymaville, Minister of Presbyterian Church of Canada, Blainville. Three Churches sent to the government protests against the application of the Reserves revenues to sectarian purposes, and stated their refusal to become participants. These were, the Baptist union of Canada, who asked to have their share applied to the support of the Normal School; the United Presbyterian Synod, who suggested that the revenues ought to be applied to the support of the Common School education; and the Methodist Episcopal Church, who pointed to Common School education or some general purposes as the proper mode of applying the funds.

At the general election of 1847-8, the secularization of the Reserves was, in the majority of cases, rather implied than openly demanded by the constituents, and specifically promised to be advocated by the candidates. A greater prominence was given to a very subordinate, though an important question—University Reform; but specific pledges by candidates on any question were almost unknown.

In the Session of 1849, a motion was made in the Assembly, to refer to a Select Committee a certain petition praying that all constitutional means might be taken to obtain the repeal of the Imperial Act. The views of ministers as to the mode of dealing with the question were then for the first time elicited. Mr. Price said he held it to be "the duty of the government to settle the "question, but it could not be settled by the "House: all that could be done was to negotiate "with the Home Government." He opposed the appointment of a Committee. To an incidental suggestion that the Committee might further the question by reporting an address to the Imperial Government, an objection was made on the part of the ministry, that they were not prepared at that moment, to make any definite movement on the question. Mr. Baldwin said, "This "question could only be disturbed by the action "of the Imperial Parliament: therefore, those "who complained that the ministry had not occupied themselves with this question instead "of other important questions which they had "brought before Parliament, forgot that they "were complaining of the ministry not doing "that which in point of fact they had no power "to do." The motion for a Committee was got rid of by a member moving the previous question.

The Session of 1850 approached. A profound mystery, altogether unaccountable, hung over the conduct and intentions of the government in respect to this subject. The cause and the nature of the difficulty that had hitherto prevented their taking action on the subject were alike subjects of conjecture. In the first Session the question had been ignored. But that was a Session of but a month's duration. Besides, the Parliament had been called together soon after the formation of the ministry. There had not been sufficient time for the Government to prepare measures on the great questions. Such were the excuses that allayed the impatience of those whose anxiety was chiefly directed to this question. The refusal to touch it in the second Session, on the plea of not being prepared for any decisive action, shook the faith of many in the intention of the government to grapple with it at all. When the third Session arrived, it could no longer be concealed that the promised negotiation with the Imperial Government had not been opened. The distrusts of the advocates of secularization increased. A few days before the opening of the Session, a public meeting was held in Knox's Church, Toronto, to discuss the question. The meeting was called by a Society which had been organized in Toronto, under name of "*The Anti-Clergy Reserve Association.*" The preliminary meetings of the Committee of the Association had discovered the existence of a violent antagonism in the very heart of the association itself, as to the course to

be taken at the public meeting. One section of the Association contended that the government ought to be called upon to make the question a government measure. This the partisans of the government in the Association strenuously opposed. They also objected to the appearance on the platform, at the public meeting, of a gentleman who had recently resigned his seat in the Cabinet. On this point also the antagonism waxed warm. The night for the meeting arrived. A consultation was held in the basement of Knox's Church; but the difference could not be reconciled. Dr. Burns and several other gentlemen who had been named as speakers, refused to go on the platform if the hon. Malcolm Cameron was to be excluded. One gentleman, however, who held the same view, went on the platform, made a speech and proposed a resolution in the very teeth of the ministerialists, in whose faces blank dismay was depicted. They had defended their objection to admit the retired minister to the platform on the ground that his appearance would give to the movement an anti-ministerial character. During the meeting, something occurred to call Mr. Cameron to the platform, which he mounted amid the cheers of one portion, and marks of disapprobation from another portion of the audience. He denounced with withering effect the opposition he had encountered. Retorts were hurled back with impatient temper; till the excitement rose to its height. All this only served to increase the mystery and the distrusts that surrounded the intentions of the government.

The third Session of Parliament opened; and the Royal Speech was silent on the question which of all others most deeply agitated men's minds. Still the situation of the government was not fully known, and the motives of their conduct were variously interpreted. The Clergy Reserves were not to be made a ministerial measure; but why? There was the mystery. When the Session was about five weeks old, Mr. Price introduced a string of 31 resolutions, ill-written and illogically arranged; and which, having recited the action of the Upper Canada Legislature on the question from 1827 to 1849, thus concluded:

28. "That it is the opinion of this House, that the legal or constitutional impediments which stood in the way of Provincial Legislation on this subject, should have been removed by an Act of the Imperial Parliament, but that the appropriation of Revenues derived from the investment of the proceeds of the public lands of Canada, by the Imperial Parliament will never cease to cause discontent to Her Majesty's loyal subjects in this Province.

29. "That this House is of opinion that when all the circumstances connected with this question are taken into consideration, no religious denomination can be held to have such vested interest in the revenue derived from the proceeds of the said Clergy Reserves, as should prevent further Legislation with reference to the disposal of them, but this House is nevertheless of opinion that the claims of existing incumbents, whether of individuals or of religious bodies should be treated in the most liberal manner.

30. "That in the opinion of this House the most liberal and equitable mode of settling this long agitated question, would be for the Imperial Parliament to pass an Act providing that the annuities now payable to the several denominations of Christians receiving the same, should terminate at some specified time, either on the demise of parties receiving the same, or at the expiration of a term of years, and that subject to this provision the Provincial Parliament should be authorized to appropriate as in its wisdom it may think proper, all revenues derived from the present investments, or from those to be made hereafter, whether from the proceeds of future sales or from instalments on those already made.

31. "That it is the opinion of this House, that an humble Address should be presented to Her Most gracious Majesty the Queen, praying that Her Majesty will recommend to Parliament a measure for the repeal of the Imperial Act 3 & 4 Vic. Chap. 78, and for the Canadian Legislature to dispose of the proceeds of the Clergy Reserves, subject to the authorizing the conditions above described."

The contradictory views on the question elicited from ministers during the discussion of these resolutions revealed the cause of ministerial inaction and the reasons for not making it a ministerial question. But another question was raised respecting the proper mode of proceeding with the open question; one party contending that the power constitutionally vested in the Provincial Legislature left open to it no other course of proceeding than by address to the Imperial Parliament, as proposed in the resolutions; another taking the ground that it would be better to proceed to the settlement of the question at once by bill. On the disputed point the introducer of the resolutions said: "It had been said by some "persons that the measure finally to settle this "great question should have been brought in by "the government, and likewise that it should "have been by bill, which would be sent home "to receive the Royal Assent, instead of an "address asking the Imperial authorities to pass "such a bill. But he had taken his present "course because he believed it would most effectually settle the question. It was, indeed, the "only course open to him; it was the only course "which could regain to Canada the complete "control over the Clergy Lands which they had "resigned to the Imperial authorities. He "wished to ask whether, when the government "could not agree on this question, if he and "those members who agreed with him had resigned there was a party in the house strong "enough to force the remaining members of the "government to make this a Cabinet question, "and carry it through. He believed that he "could answer in the negative." In the course of his speech Mr. Price frequently repeated the assertion, directly opposed to the fact, that the Provincial Legislature had surrendered the control of the question to the Imperial authorities; relying apparently upon the obscurity in which this point was involved by the popular ignorance on the question. The admission of the impossibility of agreement by the government on the question elicited an inquiry of Mr. Price whether

he had not, in a published letter, stated that no difference existed between him and his colleagues on the question; and to which an affirmative reply served as a full confession of the incorrectness of the allegation of unanimity. It was by such statements as this that the public had been misled and the mystery increased, as to the intentions of the government to the latest moment that concealment was possible. Solicitor General Macdonald put the enquiry: "Did gentlemen "suppose that the British Government would "permit a bill to become law which would "sweep away an Act of the Imperial Par- "liament." Mr. Baldwin combatted certain doctrines which had been broached in regard to the disposal of the Reserves. "There seemed "to be an opinion," he said, "out of doors that "this question was to be disposed of by the opin- "ion of a mere majority. This was a false prin- "ciple in morals and politics. He questioned whether the absolute will of a single individual "would not be less despotic than that of a majo- "rity, if it were held that a majority might do "any thing. There must be right and justice as "well as the will of a majority. Nor did he ad- "mit that these lands were the property of the "people in the sense they were sometimes said "to be, since they had been set apart for a "particular purpose. There must, he repeated, "be something more than the mere will of the "majority to justify the interference of Parliament "or the property of no individual would be safe. "He had no sympathy with these modes of rea- "soning, and he disclaimed being influenced by "them. The premises were false and all the con- "clusions drawn from them must also be false. "The agitation on this question had been got up "partly by persons who have conscientious scru- "ples against all religious endowments. For his "part he had no such scruples; he did not think "endowments for religious purposes at all objec- "tionable; but he did object to the union of the "Church with the State. Up to the passing of "the Act of 1840, he had been of opinion that "the revenues should be devoted to education. "But he felt that the Act of 1840 had considera- "bly altered the position of the question; and he "did not now feel so decided as to the mode in "which the property should be disposed of; and "he was not prepared to go into the question. He "did not however regard the Imperial Act as a "final settlement, because it did not express the "opinion of the people of Canada." The Hon. gentleman also stated that the government, as a government, had no opinion on the question; and quoted British precedents to justify the resort to open questions. On this latter point Mr. Baldwin was met by the Hon. H. J. Boulton who embodied in an amendment an extract from the address of Mr. Baldwin, of 1847, that "when an "adviser of the Crown on a great public question "avowes a scheme which his colleagues dare "not approve, public liberty and public morality require that they should separate." The amendment, which went on to condemn the violation of this principle of morality by the government, was lost on a vote of 11 against 54. Mr. Lafontaine said "he was not one of those who considered an Act "of Parliament as a final settlement; but there "was a great difference between considering a "thing not final and repealing every Act which "embodied the rights of private individuals, of "which there was too much now a-days. In his "opinion the granting of the Reserves was a "very injudicious exercise of power; but it had "been done by those who had the power to do "so; if any individual rights had been obtained "by that act, those rights should not be disturb- "ed. He maintained that these endowments "should be held inviolate, and as far as possible "carried into effect. If the Canadian Legisla- "ture were to receive the power of repealing the "Imperial Act, he considered it would then be "their duty to see that the Constitutional Act "should be preserved sacred, and all denomina- "tions admitted to participate equally. He deni- "ed the statement of the Hon. member for Corn- "wall (Hon. J. H. Cameron) that the religious "endowments in Lower Canada rested on no "surer foundation than the Reserves. Nine- "tenths of those lands were donations from pri- "vate persons, and not from the Crown." The Hon. gentleman objected to the Imperial Act, on the ground that it was passed without the consent of Lower Canada. Hon. M. Cameron concluded a long speech by moving for a select Committee to report a bill for appropriating the Reserves revenues to the purposes of general education. The speeches of Ministers had anticipated this course, and raised objections to it in advance. Mr. Hincks who followed took the same ground as had been occupied by his colleagues on this debatable point. "He admitted that there was a "wide difference in the Cabinet on the subject of "the Clergy Reserves; but it was an utter mis- "representation to charge members with endea- "vouring to evade their pledges to the country. "The Ministry were charged with being rene- "gades and traitors, because they did not choose "to adopt the absurd and unconstitutional measure "suggested by those Hon. Members who were "content to treat the question only by the intro- "duction of a bill. These parties were striving "to delude the Reform party by declaring that "theirs was the only proper mode by which to "bring about a satisfactory settlement." Solicitor General Drummond expressed opinions in direct opposition to those of Mr. Lafontaine. He said: "In the case of these lands there was no "donee; and he looked upon the endowment as "incomplete. He denied that any vested right "had arisen under these endowments. But even "if there were vested rights, was it not the first "duty of the Parliament to preserve the peace of "society? Did there not arise in all communi- "ties occasions in which the interests of society "required that vested rights should be dis- "turbed? Who would say that it was wrong in "France when she manumitted all the serfs in the "country in one night? Yet that was an inter- "ference with a vested right. Was it wrong in "England to free the blacks in the West Indies? "Was it wrong in the British Parliament to take "from the Bishops of Ireland a small portion of

"their large income? Was it wrong in Lord "Morpeth to propose to take an annual sum from "the Irish Church and give it to education; when "in many of the benefices there were but few "persons professing the religion of the Church of "England and in others none? In the debates "in the English Parliament on that proposal he "did not find any one object to it on the ground "that it interfered with a vested right." The proposal of Mr. Cameron to proceed by bill was negatived by a vote of 13 against 56.

YEAS—Messieurs Bell, Boulton of Norfolk, Cameron of Kent, DeWitt, Fergusson, Holmes, Hall, Hopkins, McConnell, Papineau, Scott of Bytown, and Thompson,—13.

NAYS—Messieurs Armstrong, Badgley, Attorney General Baldwin, Boulton of Toronto, Boutillier, Cameron of Cornwall, Cauchon, Cayley, Chabot, Chauveau, Christie, Chrysler, Davignon, Duchesney, Dumas, Flint, Fortier, Forquin, Gugy, Guillet, Inspector General Hincks, Jobin, Lacoste, Attorney General LaFontaine, LaTerriere, Laurin, Lemieux, Solicitor General Macdonald, Macdonald of Kingston, Sir Allan N. McNab, Marquis, McFarland, McLean, Merritt, Methot, Mongenais, Morrison, Polette, Prince, Price, Richards, Robinson, Ross, Sanborn, Sauvageau Scott of Two Mountains, Seymour, Sherwood of Brockville, Sherwood of Toronto, Smith of Durham, Smith of Frontenac, Smith of Wentworth, Stevenson, Tache, Viger, and Wilson,—56.

Mr. Morrison moved an amendment to the 29th resolution to the effect that the address should pray for the placing of the Reserves at the unconditional disposal of the Provincial Legislature; which was lost by a majority of 23 against 42.

The 29th resolution was carried by a vote of 36 against 34.

YEAS—Messieurs Attorney General Baldwin, Bell, Burritt, Cartier, Davignon, DeWitt, Solicitor General Drummond, Dumas, Flint, Fortier, Hall, Inspector General Hincks, Holmes, Johnson, Lacoste, Lemieux, Lyon, Solicitor General Macdonald, McConnell, MacFarland, Merritt, Mongenais, Morrison, Notman, Papineau, Price, Richards, Ross, Sanborn, Savageau, Scott of Two Mountains, Smith of Durham, Smith of Wentworth, Tache, and Thompson,—36.

NAYS—Messieurs Armstrong, Badgley, Boulton of Toronto, Cameron of Cornwall, Cameron of Kent, Cauchon, Cayley, Chabot, Gugy, Guillet, Hopkins, Jobin, Attorney General LaFontaine, LaTerriere, Laurin, Macdonald of Kingston, Sir Allan N. McNab, McLean, Methot, Polette, Prince, Robinson, Scott of Bytown, Seymour, Sherwood of Brockville, Sherwood of Toronto, Smith of Frontenac, Stevenson, Viger, and Wilson,—34.

The 30th resolution was carried by a vote of 40 against 28.

YEAS—Messieurs Armstrong, Attorney General Baldwin, Bell, Boutillier, Burritt, Cartier, Cauchon, Chauveau, Davignon, DeWitt, Solicitor General Drummond, Dumas, Flint, Fortier, Hall, Inspector General Hincks, Holmes, Jobin, Lacoste, Attorney General LaFontaine, Lemieux, Lyons, Solicitor General Macdonald, McConnell, McFarland, Methot, Mongenais, Morrison, Notman, Papineau, Price, Richards, Ross, Sanborn, Sauvageau, Scott of Two Mountains, Smith of Durham, Smith of Wentworth, Tache, and Thompson,—40.

NAYS—Messieurs Badgley, Boulton of Toronto, Cameron of Cornwall, Cameron of Kent, Cayley, Chabot, Christie, Crysler, Duchesnay, Gugy, Guillet, Hopkins, Johnson, LaTerriere, Laurin, Macdonald of Kingston, Sir Allan N. MacNab, McLean, Polette, Robinson, Scott, of Bytown, Seymour, Sherwood of Brockville, Sherwood of Toronto, Smith of Frontenac, Stevenson, and Wilson,—28.

The 31st resolution was carried by a vote of 45 against 23.

The address founded on the resolutions was carried by a vote of 46 against 23.

YEAS—Messieurs Baldwin, Bell, Boutillier, Burritt, Cartier, Chauveau, Davignon, DeWitt, Drummond, Dumas, Fergusson, Flint, Fortier, Fournier, Forquin, Guillet, Hall, Hincks, Holmes, Jobin, Lacoste, LaFontaine, Lemieux, Lyon, Macdonald of Glengarry, Mongenais, Morrison, Nelson, Notman, Papineau, Polette, Price, Richards, Ross, Sanborn, Sauvageau, Scott of Two Mountains, Smith of Durham, Smith of Wentworth, Tache, Thompson, and Watts,—46.

NAYS—Messieurs Badgley, Boulton of Norfolk, Cameron of Kent, Cayley, Chabot, Christie, Chrysler, Dickson, Gugy, Hopkins, McLean, Meyers, Robinson, Sherwood of Brockville, Sherwood of Toronto, Stevenson, and Wilson,—23.

The small majority by which the 29th resolution was carried is explained by the fact that the opposition to it comprised two or three parties actuated by the most opposite motives. Among these were all who were opposed to disturbing the Imperial Act; and those who objected to the fettering with present conditions a future Parliament in its disposal of the Reserves, and who, in the vote on Mr. Morrison's amendment, numbered 23. Of those who finally voted against the address several did so not because they were opposed to the re-opening of the question; but on the ground that a bill and not an address would have been the proper mode of proceeding.

The great discordance of opinion on the subject, expressed by the different Cabinet Ministers explained the mystery that had, for two years and a half, hung over the action of the government; but the delay of Mr. Price, for so long a period, to move in the question individually is not explicable on the supposition that he could possibly have hoped that unanimity in the Cabinet would ever become possible; and we are driven to seek an explanation of that delay in the desire to throw on a future Parliament the responsibility of grappling with the difficulties of the question.

The constitutionality of passing a bill here to dispose of the question was the subject of much discussion by the press as well as in the Legislature. It was a singular omission in the arguments of the ministerialists, that they never thought of resting their case on the opinion of the English judges that, at no time, has the Canadian Legislature been vested with the power to dispose of the reserves. The one argument of the opponents of a bill was that we cannot repeal an Act of the Imperial Parliament. Without inquiry into the correctness of the general proposition, we think there can be no doubt that, applied

to the present case, it was indisputable. But the objection was not ingenuous. It denied what had not been affirmed on the other side. As we understand the matter, the advocates of a bill never asserted anything so absurd as the power of the Canadian Parliament to repeal the Imperial statute. We believe it was never denied by them, that an Act of the Provincial Parliament repugnant to the Imperial statute could not become law till such Imperial statute should have been repealed. There were on the records of our Provincial Parliament at least two instances in which bills had been passed that were repugnant to the Act of Union, which is not only an Imperial statute, but is also the constitution of United Canada. In each of these cases, the Imperial Government caused to be introduced into the British Parliament a bill for enabling Her Majesty to assent to the Canadian bill, by repealing so much of the Imperial statute as was repugnant to the bill. But right or wrong, the proposal to pass a bill for the disposal of the Reserves was rejected by the Canadian Assembly, and it is obvious that, on the supposition that the proposal to introduce a bill suggested the proper mode of procedure, the settlement of the question that way, has been greatly embarrassed by the adoption of another course. If, under any circumstances, it would be right to proceed by bill, the time to have done so would have been before the Legislature had committed itself to another and opposite mode of procedure. By the adoption of Mr. Price's resolutions, the Assembly volunteered the admission that the question is beyond our control; and we are now actually awaiting the fulfilment of a promise on the part of Her Majesty's Government that a bill shall be introduced into the Imperial Legislature, at its next Session, for acceding to the prayer of the address founded on those resolutions. The intervention of some such casualty as a change of Cabinet in England, which should prevent the fulfilment of Earl Grey's promise, would place us in a different position, and, in our opinion, justify the anticipation by our Legislature of the delayed action of the Imperial Parliament.

In the despatch of Lord Elgin, (July 19, 1850,) accompanying the Address of the Provincial Legislature to Earl Grey, His Excellency made some observations which have since been the subject of severe animadversions by a portion of the Canadian Press. The following is the part of the despatch which has been regarded as showing Lord Elgin's leanings on the subject:

"I deeply regret the revival of agitation on this subject, of which Lord Sydenham truly observed, that it had been in Upper Canada the one all-absorbing and engrossing topic of interest, and for years the principal cause of the discontent and disturbance which had arisen, and under which the Province had laboured. The intervention of the Imperial Parliament in 1840 was doubtless prompted by a desire to settle on terms which should be equitable and generally satisfactory, a question which had for so many years disturbed the peace of the colony. While the principle, however of an establishment was abandoned by the Imperial Act 3 & 4 Vic. chap. 78, which admitted all denominations to share in the proceeds of the Clergy Reserves, advantages were given by it to the established churches of England and Scotland in the distribution of the funds, which renders them still objects of envy. This feeling has been increased as regards the Church of Scotland, by the large secession from its ranks which the Free Church movement has occasioned. I much fear that the result will justify the disinclination which Lord John Russell appears, from the first, to have entertained to any legislation by the Imperial Parliament on this question. It is an evil of no small magnitude, on a subject of this nature, that while the more violent and unscrupulous opponents of the existing settlement are enabled to create a prejudice against it by representing it to be the result of Imperial interference in a matter of Provincial concern, its friends are tempted rather to endeavour to influence opinion in England than to resort to measures which may strengthen their position in the colony."

The passages in this despatch to which the greatest objections have been taken are that in which regret is expressed at the revival of agitation on the question, and that alluding to the "violent and unscrupulous opponents of the present settlement." As the head of the government to whom Lord Elgin was writing was the same statesman through whose instrumentality the Imperial Act was passed, it is probable that His Excellency's expression of regret at dissatisfaction with that settlement, was, in his opinion, demanded by that official decorum which is due from the Governor of a Province to those from whom he receives his appointment. In the allusion to the "violent and unscrupulous opponents of the existing settlement," there is a harshness which may not unnaturally be supposed to symbolize some traits of personal feeling; and to betray some latent sympathies not in precise harmony with the popular will; but the entire passage with which it has connection expresses an undoubted truth. For ourselves, without corroborative evidence, we should hesitate to adopt the opinion that in this despatch there is any undoubted evidence of Lord Elgin's decided objection to that mode of settlement so generally demanded by the people of Upper Canada.

To the address of the Canadian Legislature Earl Grey replied, (January 27, 1851):—"That "while Her Majesty's servants greatly regret "that a subject of so much difficulty as that of "the Clergy Reserves should, after an interval "of some years, have again been brought under "discussion, it has appeared to them, on mature "deliberation, that the desire expressed by the "Assembly in this address ought to be acceded "to, and they will accordingly be prepared to "recommend to Parliament that an Act should "be passed giving to the Provincial Legislature "full authority to make such alterations as they "may think fit in the existing arrangements, "provided that existing interests are respected."

The reason for coming to this conclusion is that the question "is one so exclusively affecting "the people of Canada, that its decision ought "not to be withdrawn from the Provincial Legis-"lature to which it properly belongs to regulate "all matters concerning the domestic interests of

"the Province;" and that Her Majesty's Government "had the less difficulty in coming to "this conclusion, because they have observed "with satisfaction that the Assembly in their ad- "dress, have recognized the claims of those now "in the enjoyment of incomes derived from the "funds realized by the sale of the lands in ques- "tion, and have not asked, that in any alteration "of the Act of Parliament now in force, authority "should be given to the Provincial Legislature "to interfere with the continuance of these in- "comes, for the lives of the parties by whom they "are received."

In this position stands the question at present. The address of the Canadian Parliament reached England during the Session of the Imperial Parliament of 1850. No reply was vouchsafed for several months; and no practical step taken in the Session of 1851. Last Session the Canadian Parliament, at the instance of Mr. Price, took the unusual course of passing an address of thanks to Her Majesty for the gracious reception which their address of the previous Session had met; and in a despatch of the 11th of July, 1851, Earl Grey promised, on the part of the Imperial Government, that a bill shall be introduced into the British Parliament next Session, to authorize the Canadian Legislature to dispose of the reserves, subject of course to the conditions voluntered in the Price address of 1850: that the existing "incumbents," as they have been inaccurately styled, shall continue to receive their present emoluments for life. This despatch was not in reply to the address of last Session, but was written in reference to that of 1850. Should no political accident intervene to prevent the fulfilment of Earl Grey's promise, it is evident enough that the Imperial Bill will secure to the present recipients of these revenues a continuance of their present salaries for life; and it is equally obvious that this restriction, invited though it was by the Canadian Parliament, will be a source of contention hereafter. A great diversity of opinion exists as to the satisfaction of the claims of the present recipients. Some would pension them for life; others for a term of seven years; while a third class, who totally deny the equity of their claims, would cut them off at once. The chances are that one or other of the latter class will attempt, in opposition to the restrictive provisions which the Imperial Bill is sure to contain, to carry out their views respecting the claims of the present recipients. The views which prevail in official circles in England on the subject of official tenure, in the civil administration, are opposed to the removal of a single officer, unless for misconduct, without affording him some compensation. A few years ago, the fact was stated by Lord John Russell that, during the reign of two Sovereigns, not a single official in any of the colonies, had been removed, unless for misconduct in the discharge of his public duties; and the rule prescribed by the colonial administration in England for the guide of the colonial Government, has uniformly been that no man shall be removed from office, except for misconduct, without receiving compensation for the loss of official emolument. That this rule will be applied by the Imperial Legislature, to all ecclesiastics now in receipt of salaries from the Clergy Reserves revenue, Earl Grey has already given us to understand; and it may easily be fore seen, from the existing diversity of opinion on the question, that this liberality to the recipients will not give entire satisfaction in the Province. Whatever difficulty may result from the proposition, we must not forget that it originated with our Legislature in sanctioning the conditions voluntered in the Price resolutions.

But the existence, through another Session, of the present Imperial Cabinet, on whose promise we are relying, is not guaranteed by any general public confidence, or such an unfailing Parliamentary majority as constitutes the usual evidence of ministerial stability. On the contrary, during the last Session, the government was frequently placed in the most perilous situation, and was once reduced to the necessity of actual resignation. In the very possible contingency of its being superseded by a government formed from the leaders of the opposition, there will be small hope of the promised bill being passed by the Imperial Parliament. And, in any case, the opposition of the Bishops in the House of Lords, will have to be met in some way or other. Perhaps it might not be considered a case of sufficient importance to justify the creation of new Peers, for the purpose of neutralizing the ecclesiastical element in the Upper house; but that statesman who does not see in the decision of the question the future fate of Canada involved, is blind to its real magnitude and importance.

Last Session the Hon. J. H. Boulton, revived the proposal, made in the previous Session by the Hon. M. Cameron, to dispose of the question by bill. He proposed to follow the example set in the case of an alteration of the civil list, and to insert in the bill a clause suspending its operation till the Imperial Parliament should have taken the necessary action to enable Her Majesty to assent to it. This course was sanctioned by two precedents; and in both cases it had secured the object desired; but it was now so ill-timed that its rejection by a nearly unanimous vote is not much matter of surprise. As we have already remarked, on this point, the proper time to have proposed this course would have been in the previous Session, before the Legislature had deliberately resolved not to anticipate the action of the Imperial Parliament, and when the question was unembarrassed by the admission, volunteered in the Price address, that it had been placed beyond Provincial control. Only five voted for Mr. Boulton's proposition: while fifty-two recorded their votes against it. The minority consisted of Mr. Fergusson, Mr. Hopkins, Mr. Mackenzie, and Mr. Notman, besides the mover. In the previous Session thirteen had voted for Mr. Cameron's proposal for a bill; and the reduction of the number of those who advocated that course of proceeding to five is to be accounted for by the altered position of the question.

CHAPTER XIV.

The Rectories. Monies paid to Churches from 1814 to 1850—Revenue of the lands—Conclusion.

Fifteen years had passed since the creation and endowment of the Rectories, yet no decisive legislative action had been taken with respect to them previous to the last Session of Parliament. Mr. Morrison was the first to bring the question under the consideration of the Assembly, by the introduction of a bill which proposed to repeal so much of the Constitutional Act of 1791 as related to the creation and endowment of Rectories, and to take from the Crown the right of presenting incumbents to Rectories. The object of the proposed repeal of the clauses of the Constitutional Act was to place a legal prohibition on the creation of any more Rectories; the moral restraints imposed by public opinion being the only barrier in the way of creating additional Rectories, and though it might have sufficed for ever to prevent an increase of their number, there could be absolute safety only in the abrogation of a power which was at any time liable to be called into exercise. The proposal however was not altogether new: the High Church party in the Legislative Council had proposed, in 1837, to repeal so much of the thirty-eight clause of the Constitutional Act "as relates to the endowment of any parsonage "or rectory with lands." Mr. Morrison's proposal was a modification of that which had previously obtained the sanction of the Legislative Council; and it would have prevented not merely the endowment, but also the creation of any new Rectories. Its full effect would have been but to legalize that inaction which the moral strength of public opinion is now sufficient to enforce. To this proposition the High Church party opposed no objection; on the contrary, they gave it their hearty approval; which they were enabled to do with the grace of concession, without the reality. The clauses proposed to be repealed were admitted to be a dead letter. The proposal to take from the Crown the right of presenting incumbents was intended as an indirect mode of annulling the existing Rectories; and it was more liable to result in the difficulties of litigation than would have been a direct attempt to attain the same object. It was one of those tricks, so congenial to certain mental constitutions, by which nothing can be gained, and much may be lost. If it was intended to propose the abolition of the Rectories, at the death of the present incumbents, this should have been done avowedly and with candour. In that case, all the arguments that could be brought to bear in favour of the proposal, would necessarily have been called into requisition. But here was an attempt to deprive the Rectories of vitality by a bill which proceeded on the presumption that its effects would not be understood by the defenders of the menaced endowments. The object could not even be avowed, much less could arguments be advanced in its favour. The failure of this piece of peurility was apparent when the High Church advocates, in the House, denounced the object of the measure. Nor would this bill, if successful, have annihilated the Rectories: it would only have suspended their vitality; leaving their resuscitation possible the first moment the Tories might be able to secure a Parliamentary majority. During the discussion on the second reading of this bill, Mr. Wilson presented a draft of a bill, which was finally adopted. It repeals the clauses of the Constitutional Act which authorize the creation and endowment of Rectories; and transfers the right of presenting incumbents to the Rectories from the Crown to the Church Society or to such person as that Society may appoint for that purpose. Both bills were referred to a select committee, consisting of Messrs. Baldwin, J. H. Cameron, Morrison, Wilson and Notman. Before the Committee reported, Mr. Hincks moved to refer the question of the legality of the Rectories to the courts for adjudication. The motion having referred to the two legal opinions, on this question, pronounced by the law officers of the crown, in England, thus concluded:

That this [last] opinion has not had the effect of quieting the public mind in Upper Canada, and that in order to set the question finally at rest, this House humbly prays that His Excellency will take immediate steps to bring the question of Law fully to adjudication, in such a manner as will enable either party to bring the cause by appeal under the view of the Judicial Committee of the Privy Council, and this House pledges itself to make good all necessary expenses attendant on such proceedings.

The House adopted this resolution by a vote of fifty-eight against three:

YEAS—Messieurs Armstrong, Badgley, Baldwin, Bell, Boulton of Norfolk, Boulton of Toronto, Cameron of Cornwall, Cartier, Cauchon, Cayley, Chabot, Chauveau, Christie, Crysler, Dumas, Duchesnay, Flint, Fortier, Fournier, Fourquin, Gugy, Guillet, Hall, Hincks, Holmes, Jobin, Johnson, Attorney General LaFontaine, LaTerriere, Laurin, Lemieux, Letellier, Sol. Gen. Macdonald, Macdonald of Kingston, Malloch, McConnell, McFarland, McLean, Merritt, Methot, Meyers, Mongenais, Morrison, Nelson, Papineau, Polette, Price, Robinson, Ross, Sauvageau, Scott of Bytown, Scott of Two Mountains, Sherwood of Brockville, Sherwood of Toronto, Stevenson, Tache, Viger, and Watts,—58. NAYS—Messieurs Hopkins, Mackenzie, and Notman,—3.

After the House had committed itself to the policy proposed by Mr. Hincks' resolution, Mr. Notman moved for leave to introduce a bill, of which he had previously given notice, for annulling the Rectory patents; causing the lands conveyed as endowments of the Rectories to revert to the crown, reserving five acres to each rectory on which a Church or parsonage had been built; and securing to the present incumbents the enjoyment of the Rectories during their natural lives. The motion for leave to introduce the bill was rejected by a vote of forty-three against eight:

YEAS—Messieurs Bell, H. J. Boulton, Fergusson, Hall, Hopkins, Mackenzie, Notman, and Smith of Durham,—8. NAYS—Messieurs Baldwin, W. H. Boulton, Cartier, Cauchon, Chabot, Chauveau, Christie, Davignon, Duchesnay, Dumas, Flint, Fortier, Fournier, Fourquin, Guillet, Jobin, Johnson, LaTerriere, Letellier, Sol. Gen. Macdonald, Macdonald of King-

ston, Malloch, McConnell, McLean, Methot, Mongenais, Morrison, Nelson, Polette, Price, Richards, Robinson, Ross, Sanborn, Scott of Bytown, Scott of two Mountains, Sherwood of Toronto, Sherwood of Brockville, Smith of Wentworth, Stevenson, Tache, Viger, Watts, Wilson,—43.

Owing to the time at which it was proposed—the House having already committed itself to another line of policy—the fate of Mr. Notman's bill was not unexpected. Those who, but two days ago, had voted to refer the question of the legality of the rectories to the Courts for adjudication, could not now stultify themselves by voting for their abolition, irrespective of the legality of their origin. Mr. Notman had allowed three sessions to pass, and the fourth to draw near its close, before he moved to annul the rectory patents; and then the house had committed itself against the principle of his bill. The general elections were rapidly approaching, and it was pretty well understood what was the feeling out of doors. To make a show of attempting to appease that feeling, was a cheap way of purchasing the requisite modicum of popularity. That such palpable tricks should be applauded, when all the circumstances of the case are known, is passing strange. Far more title has Mr. Morrison to sincerity in his movements against the rectories; for he did not wait to offer a proposition, till such time as it was impossible that the house could adopt it. His error lay in the disingenuousness of his proposal; the offspring of a too fond adherence to that clumsy legerdemain which, with some, passes for policy. The select committee reported Mr. Wilson's bill, which passed in its original shape.

On the supposition that the Courts, and not the legislature, constitute the proper tribunal before which to decide the disputed question respecting the legal origin of the Rectories, it is obvious that the measures adopted are imperfect, and require to be supplemented by a provision that will take from the rectors, who in any case are to enjoy their incumbencies for life, any spiritual jurisdiction they may possess over persons not of their own communion. Though the Courts should decide to-morrow that the patents are null and void, this necessity would still exist; for it is not to be tolerated that the existing rectors, during their lives, shall be allowed to exercise "the same ecclesiastical authority within their "respective limits as are vested in the rector of "a parish in England;" which the Crown officers in England have declared the rectors can now lawfully exercise. The unanimity which prevailed in the House as to the propriety of referring the question to the Courts, does not exist out of doors. Indeed, it is unquestionable that the current of feeling runs in the opposite direction. As to the presumed finality of any judicial decision that should declare legal the rectory patents, it must be obvious to every one of common discernment that there is a feeling abroad that would prevent any thing like a general acquiescence in it; if any doubt had existed on this point, it would have been dispelled by the action of the reform party in their preparations for the electoral contest, now being decided. Should the event we are contemplating occur, it is easy to foresee that the popular feeling will condemn the past reference of the question to the Courts, as determined upon last session. It is a disputed question whether the constitutional Act gives to the Provincial Legislature power to annul the rectory patents. By some, the forty-first clause of that Act is regarded as giving this power. We quote the words of the Act:

"That the several provisions hereinbefore contained respecting the allotment and appropriation of lands for the support of a protestant clergy within the said provinces, and also respecting the constituting, erecting, and endowing parsonages or rectories within the said Provinces; and also respecting the presentation of incumbents or ministers to the same; and also respecting the manner in which such incumbents or ministers shall hold and enjoy the same, shall be subject to be varied or repealed by any express provisions for that purpose contained in any Act or Acts which may be passed by the Legislative Council and Assembly of the said Provinces respectively, and assented to by His Majesty, his heirs or successors."

It is by no means clear that authority is hereby given to the Provincial Legislature to annul any Rectory patents legally issued. The authority given is confined to varying or repealing these provisions of the Constitutional Act itself—to abrogating a portion of the Constitutional Charter; and does not appear to extend to affect any thing done under authority of that charter. This view of the case is borne out by the opinion of the English Judges; who state that the effect of this section of the Constitutional Act "is prospective "only, and cannot be extended to affect lands "which have been already allotted and appropri-"ated." We think there is no doubt but the Constitutional Act gives the Provincial Legislature no power over Rectories established; and if it should ever exercise any such power it will do so not by virtue of that Act, but on the general principle that this Church property, having a Parliamentary title, is at the absolute disposal of Parliament. This, in our opinion, is the ground and the only ground on which the Rectories could be annulled by the Canadian Legislature. Should the result of the contemplated appeal to the legal tribunals be to pronounce illegal the creation of the existing Rectories all controversy respecting other modes of abolishing them will be at an end. We concur in the opinion that the present incumbents can not in justice or fairness be deprived of their emoluments, without receiving an equivalent. Whether the creation of the Rectories was effected legally or illegally, the present incumbents were no parties to the transaction; and must be held as having accepted the incumbencies under supposition that the Government in presenting them thereto was exercising a legal right. There is a danger of confounding the abstract principle with the legal right. If we were treating this as an

abstract question, without reference to the existence of a prior statute law, we should deny the right of any religious denomination, as such, to claim or receive pecuniary favours at the hands of the State; but when a legal right has been established, in contravention of the abstract principle, that right must be respected, even while we destroy the principle on which it is founded.

From official sources we have compiled a tabular statement (see table No. 1 and 2) of all monies paid to different churches, from 1814 to 1850,* out of various funds at the control of government. We are unable to carry the statement further back than the year 1814. The payment of monies to churches out of other sources before the Clergy Reserves became productive, was resorted to as a temporary expedient for assisting to lay the foundation of a state religion for avowedly political purposes. Till 1840, the territorial revenue of Upper Canada was at the disposal of the Imperial Government. Now no stipends are paid to the ministers of any church from any other source than the Clergy Reserves revenue.

We subjoin a statement of the receipts from the Clergy Reserves for the years 1849 and 1850. The receipts for 1849 were:

Principal on Old Sales	£5452	4	5
Interest on Old Sales	4048	10	11
Principal on New Sales	18781	1	6
Interest on New Sales	2056	13	4
Rents on leased lots	1336	8	7
Rents on lots not leased	1820	12	7
Inspections	543	19	0
Total	£34039	10	4

In 1850 the receipts were much larger:

Principal on Old Sales	£8314	7	8
Interest on Old Sales	7070	0	11
Principal on Old Sales	28304	5	6
Interest on New Sales	3938	5	2
Rent on leased lots	3311	12	1
Rent on lots not leased	2024	12	9
Timber Dues	56	14	8
Inspections	717	15	0
Total	£53737	13	9

The funded capital, and the revenue arising therefrom, are every year rapidly increasing. When all the lands are sold, the capital fund would not be less than eight millions of dollars; yielding an annual revenue at six per cent. of $480,000. This fund would make three hundred and thirty three waggon loads of silver, one ton to each waggon, and would suffice to secure the blessings of a free education to every child in the country.

The Episcopalians and the Church of Scotland have been allowed to take advantage of the indefiniteness of the Imperial Act of 1840; whereby they have come into possession of all the revenue derived from the capital accruing from sales from the latter part of 1840 to the commencement of 1845. The sale of the reserves had been provided for by an Imperial statute passed in 1828. That statute was not repealed by the Act of 1840; so that there are now two Acts under which the reserves might be sold. By the Act of 1840, the churches of England and Scotland are entitled to the interest on the proceeds of all the lands sold under the Act of 1828. When there are two Acts under which the lands may be sold, it must be a purely arbitrary decision to say that they are sold under the one or the other. For reasons of its own, the Government of the time thought proper to say that all the sales from the latter part of 1840 to the commencement of 1845 were made under authority of the statute of 1828; and by this means the churches of England and Scotland became entitled to all the interest on the sales during that time. It could not have been the intention of the Imperial Parliament that sales should continue to take place under the statute of 1828 after the statute of 1840 came into force; and if it were legally permissible to continue the sales under the former statute till 1845, why not sell all the lands under the same authority? It is clear that the intention of the Imperial Parliament has been disregarded, for the purpose of giving an unjust advantage to the churches of England and Scotland.

If, having gone over the entire history of the question, we compare the results with the object sought to be attained in the making of the Reserves, we are irresistably led to the conclusion that they have not answered the purpose of their creation. These Reserves were intended to supply the means of endowing a State Church, of which the existence was desired for political purposes. It was vainly supposed that, through the medium of such a Church, all political discontents could be banished or allayed. Experience has taught a different lesson. The existence of these Church lands, so far from being the means of preventing or allaying public dissafection, have themselves been the greatest of all sources of discontent. They have given rise to doubts and suspicions of the justice and the good faith of the Imperial Government. They have created in the public mind a chronic discontent. The repeated failure of the attempts at secularization has imparted a degree of sullenness to the public mind. To the differences of religious creeds has been added the acrimony of political injustice. The collisions of favored religious denominations whom a factitious elevation has invested with the

* Of the amount received by the churches in 1849 there were arrearages—Church of England, U. C., £11,427 2s; Church of Scotland, U. C., £381 5s.; Wesleyan Methodists, U. C., £1,148 6s. 8d.

By tables No. 1 and 2 it will be seen that the whole amount paid to the various churches, from public sources, from 1814 to 1850 is $2,181,319, which in silver would weigh 81 1-7 tons! Of this amount the Church of England, in Upper Canada, received £200,716 10s. 0½, sterling; the same Church in Lower Canada received £108,766 2s. 11d.; the Presbyterian Church of Scotland in Upper Canada, £58,213 3s. 1d., in Lower Canada £10,139 6s. 3d; the Presbyterian Synod of Upper Canada £22,539 10s. 10d.; the Roman Catholics, in Upper Canada £29,750 15s. 1d., in Lower Canada £9,385; the Wesleyan Methodist Church in Upper Canada £21,855 2s. 0d., sterling.

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AN ABSTRACT FROM PARLIAMENTARY RETURNS SHEWING THE S

And the fund out of which they were paid, from the year

CHURCHES	FROM WHAT FUND PAID	1814	1815	1816	1817	1818	1819	1820	1821	1822	1823	1824	1825	182
		£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d	£. s.
CHURCH OF ENGLAND, UPPER CANADA.	Rents of Clergy Reserves	....	....	427 9 4½	....	....	....	....	150 0 0	200 0 0	....	775 0 0	350 0 0	1072
	Grant in aid of Civil Expenditure	....	....	....	....	....	....	....	....	....	....	....	....	...
	Funds of the Canada Company	....	....	....	....	....	....	....	....	....	....	....	....	...
	Crown Revenues	250 0 0	270 0 0	166 14 2½	....	100 0 0	100 0 0	100 0 0	100 0 0	100 0 0	100 0 0	100 0 0	100 0 0	100
	Total	250 0 0	270 0 0	594 3 7½	....	100 0 0	100 0 0	100 0 0	250 0 0	300 0 0	100 0 0	875 0 0	450 0 0	1172
CHURCH OF LOWER CANADA.	Annual Grant of Imperial Parliament	150 18 6	199 10 3	4550 18 6	4521 6 10	4540 18 6	5031 14 6	5140 18 6	5138 13 3	5140 18 6	5140 18 6	5140 18 6	5140 18 6	5390 1
ROMAN C. CHURCH, U. C.	Grant in aid of Civil Expenditure	....	....	....	....	....	....	....	....	....	....	....	200 0 0	400
	Funds of the Canada Company	....	....	...	....	....	....	....	....	....	....	....	...	...
	Total	...	....	....	....	....	....	....	....	....	....	....	200 0 0	400
ROMAN C. CHURCH, LOWER CANADA	Annual Grant of Imperial Parliament	1050 0 0	1050 0 0	1100 0 0	1100 0 0	1100 0 0	1100 0 0	1200 0 0	1108 7 1	1100 0 0	1100 0 0	1100 0 0	1100 0 0	1100
	By annual vote of Legislature	150 0 0	150 0 0	150 0 0	150 0 0	150 0 0	250 0 0	500 0 0	500 0 0	500 0 0	500 0 0	500 0 0	500 0 0	500
	Total	1200 0 0	1200 0 0	1250 0 0	1250 0 0	1250 0 0	1350 0 0	1700 0 0	1608 7 1	1600 0 0	1600 0 0	1600 0 0	1600 0 0	1600
ESTABLISHED CHURCH OF SCOTLAND, U. C.	Grant in aid of Civil Expenditure	....	....	....	....	....	....	....	....	....	....	....	....	...
	Funds of the Canada Company	....	....	....	....	....	....	....	....	....	....	....	....	...
	Crown Revenues	....	....	....	79 3 6½	100 0 0	100 0 0	100 0 0	....	100 0 0	....	100 0 0	100 0 0	100
	Total	....	....	....	79 3 6½	100 0 0	100 0 0	100 0 0	....	100 0 0	....	100 0 0	100 0 0	100
ESTABLISHED CHURCH OF SCOTLAND LOWER CANADA.	By annual vote of Legislature	100 0 0	100 0 0	100 0 0	100 0 0	100 0 0	99 15 0	100 0 0	100 0 0	100 0 0	100 0 0	100 0 0	100 0 0	100
PRESBYTERIAN SYNOD OF CANADA, U. C.	Grant in aid of Civil Expenditure	....	...	...	....	....	....	....	....	....	....	....	....	...
	Funds of the Canada Company	....	....	....	....	....	....	....	....	....	....	....	....	...
	Total	....	....	....	....	....	....	....	....	....	....	....	....	...
W. METH. CHURCH, U.C.	Grant in aid of Civil Expenditure	....	....	....	....	....	....	....	....	....	....	....	....	...

HEWING THE SUMS PAID TO THE DIFFERENT DENOMINATIONS,

ears paid, from the year 1814 *to* 1840, *both inclusive.*

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arrogance of authority, with those who smart under a sense of unmerited degradation, have created wounds that, when the cause of the difficulty shall have been removed, time alone will be able to heal. There exists a chronic distemper of the public mind, which will never be cured so long as one religious sect enjoys previleges denied to others, or which others could not conscientiously accept; so long as a single Rector possesses the semblance of ecclesiastical authority over persons not of his own communion, and the Clergy Reserves remain as a means of sectarian bribery and an ever active source of popular irritation and discontent. This church question connects itself intimately with the FUTURE; and on its settlement the destiny of Canada mainly depends. The government that shall effect that settlement on the broad basis of justice, will confer an incalculable benefit on the Province, and establish a claim to the lasting gratitude of posterity.

TABLE NO. II.

STATEMENT

Of Monies paid to the undermentioned Churches out of the Clergy Reserves Fund.

	1841	1842	1843	184x	1845
	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.
Church of England, Canada West..	8941 1 0	8189 5 1	7912 9 11	7724 14 3	8728 17 8
Do. do. Canada East..	....	....	....	....	....
Church of Scotland, Canada West..	1711 2 2	1599 14 5	1345 16 8	1063 8 1	6008 3 2
Presbyterian Minister at Perth, C. W.	111 2 2	111 2 2	111 2 2	111 2 2	111 2 2
United Synod Presbytery, C. W....	777 15 2	707 1 4	777 15 2	656 14 10	636 7 0
Roman Catholic Church, C. W.....	....	....	....	....	....
Wesleyan Methodist, Canada West..	1666 13 2	1666 13 2	1666 13 2	666 13 2	1666 13 2
Synod Presbyterian Church, C. W..	777 15 6	719 8 10	662 2 2	662 2 2	607 15 6
Church of Scotland, Canada East..	555 11 0	555 11 0	555 11 0	452 0 0	330 13 7
Total Currency...£	14541 0 2	13548 16 0	13031 10 3	12336 14 8	18089 12 3

	1846	1847	1848	1849	1850
	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.
Church of England Canada West...	12066 11 10	17940 14 6	9765 10 6	23712 4 8	14729 16 4
Do. do. Canada East..	7197 16 0	2079 13 7	2016 10 8	2018 17 9	2498 18 5
Church of Scotland, Canada West..	1268 6 8	9276 1 6	8050 18 11	6633 18 7	7561 8 9
Presbyterian Minister at Perth, C. W.	111 2 2	111 2 2	111 2 2	....	....
United Synod Presbytery, C. W.....	636 7 0	565 13 0	565 13 0	565 13 0	565 13 4
Synod Presbyterian Church, C. W..	....	50 0 0	....	....	....
Roman Catholic Church, C. W.....	1666 13 2	1666 13 2	1666 13 2	1666 13 4	1666 13 4
Wesleyan Methodist, Canada West..	607 15 6	607 15 6	607 15 6	1739 8 10	574 0 10
Church of Scotland, Canada East...	317 9 2	522 4 6	1006 5 4	1009 8 11	1249 9 3
Total Currency...£	23872 1 6	32819 17 11	23792 9 3	37346 5 1	28846 0 3

CELEBRATED SPEECH OF DR. J. ROLPH,

(THEN MEMBER FOR NORFOLK),

DELIVERED IN THE UPPER CANADA HOUSE OF ASSEMBLY,

DURING THE FIRST SESSION OF THE THIRTEENTH PARLIAMENT IN THE YEAR EIGHTEEN HUNDRED AND THIRTY-SIX,

ON THE BILL FOR APPROPRIATING THE PROCEEDS OF THE CLERGY RESERVES TO THE PURPOSES OF SECULAR EDUCATION.

The following speech is without a parallel in the annals of Canadian parliamentary debate. The clear, pointed, classical diction of the speaker; the learning, and historical research he displayed; the beauty and appositeness of his illustrations; the breadth, and depth, and immovable basis of his arguments; the clearness, the syllogistic accuracy and force of his logic, and the impressive eloquence of his delivery, produced an effect upon those who heard the speech, never to be forgotten. Its publication in the newspapers of the day aroused the people. It convinced them (for strange as it may seem now, there were many who needed to be convinced) of the unscriptural, immoral, and unjust character of a State Religion; while it confirmed them in their determination to rest not until they had exterminated the curse from Canadian soil. The "good time" has not yet arrived but there are sure signs that it "is coming," and coming hastily.

This noble effort of an able, learned, bold and patriotic defender of the cause of the people, against their corrupt, unscrupulous and then powerful enemies, ought to be printed in letters of gold, and preserved for the instruction, and warning of all future generations of Canadian freemen.

Dr. John Rolph.—Mr. Chairman,—I consider the question under debate, one of great interest and importance, and which I do not approach without diffidence and concern. I feel obliged to my hon. friend from Grenville (Mr. Norton) for the calm, temperate and reasoning manner in which he has introduced the subject to the consideration of the committee—an example which I trust, will continue to meet throughout the discussion with the practical approbation of all engaging in the debate. It is on this account I feel regret at a few remarks which fell from an hon. member opposite (Mr. Marks,) for when the hon. and learned member for Toronto, in his eloquent and perspicuous address, alluded to the great neighboring republic, the illustration was received from his learned lips as music to the ear and instruction to the understanding: but no sooner did my hon. friend from Grenville, in unavoidable reply, make a similar reference, than he was met by the hon. member opposite with observations, as misplaced as they were undeserved.

I consider there are three distinct views or propositions on this subject before the committee; 1st, to confine the Clergy Reserves to the English Church to the exclusion of all others. 2nd, to divide them among a select number of churches. 3rd, to apply them to General Education. I shall separately consider these propositions; and I am happy the claims of the English Church, first under your notice are vindicated by so able and eloquent an advocate as the learned Solicitor General. Contemplate the learned gentleman (to whom I cheerfully give every meed of praise) in his elevated place as its champion; see him surrounded with all the Clergy Reserves and their rents and profits; confess the worth of the Bishops, Archdeacons, Priests and Deacons in their extended diocese; multiply, if you please the 57 Rectories, with their endowments and exclusive ecclesiastical and spiritual rights and privileges; view about the learned gentleman, in concentrated perspective, all the wealth and glory of our provincial hierarchy, lately gilded, too, with £70,000, a fractional product of a fraction of their vast estates, besides the most wealthy congregations

yielding revenues unknown. Amidst all this ecclesiastical splendor and aggrandizement, the learned gentleman is approached with an humble request. He is prayed to recover his sight from the glare about him, and condescendingly cast a glance into the surrounding distance. There he is shown numerous other churches formed of christian groups about pious pastors, with no wealth but the Bible, and no distinction save the Cross. Behold these fellow laborers in the same vineyard! Will you be pleased, sir, out of your abundance, to share a portion of it among them? Will you? What is the answer?—Not a jot! Our best feelings seem intuitively to enlist themselves against this answer. It seems equally to shock natural reason and christian charity. From a happy constitution of our nature, some truths and errors, like the extremes of light and darkness to the eye, force a moral perception, which neither needs nor allows argumentative deliberation. To prove that two and two make four, would puzzle, perhaps, a logician; and I envy not the casuist or the divine, who, neither from the emotions of the heart, nor the principles of reason, can perceive or understand the palpable selfishness and injustice of admitting one church to monopolize wealth and power, to the exclusion of every other. Conscience, the monitor which sometimes whispers and sometimes roars, seems in this case, as in a thousand others, to anticipate mere fallible reason, by instantly revealing the sanctions of unerring truth. Put the case as stated (or if over-stated bring down the contrast to the least possible existing disproportion) to a child or an adult, to an Indian or a Philosopher, and the first exclamation will be,—"it is unequal indeed! Splendid hierarchy, share your aggrandizement with your sister-churches!" This is the voice of reason, the language of the heart and the philosophy of the Bible.

The very conclusion that the other dissenting churches ought not to enjoy the wealth, patronage and union of the State, affords an obvious corollary against the exclusive claims of the church in question. Whatever reason may be assigned against the Kirk, the Presbyterians, the Baptists, the Methodists, or any other known denomination, may with equal force be applied to the English Church in this country. It is not for me, sir, to combat imaginary grounds of exception against bodies of christians who I cannot conceive to be otherwise than entitled to equal religious rights. State the reason of the exclusion and I will show the applicability of it to the excluders. You may, after analytical fashion, call these unknown causes of disability, x x y *ad libitum;* and whenever their real value is ascertained, you will find that they may, without disturbing the balance of truth, be assigned to either side of the equation. Are the churches, in any respect, less deserving? Are they less industrious in their respective avocations? Do they less display the domestic and social virtues? Are they less loyal to the King or patriotic to their country? Are they, in any respect whatever, inferior subjects either in peace or war? I will not pause for an answer lest it should seem to imply on my part even a distant belief that any hon. member would indulge in the affirmative. But, surely, when there is such a christian correspondence between their political relations and deserts, there ought to be extended to them the same favor and protection. They draw their creed, too, from a common source; they worship the same Supreme, and they anchor in the same faith. They hasten to the common tomb, and being expectants of the same resurrection—they mingle as fellow-candidates for the same immortality.

It is wrong, then, to make artificial distinctions, when there is no real christian difference. All indeed, may not think alike, and the systematic theologian may draw lines of demarcation. But they are branches of the same vine; and although those branches may present autumnal varieties of color, shape, and size, yet they are nourished by a common root, and all springing from the parent trunk, are seen in friendly company growing with it towards the sky. Light loses not its physical law or beauty by spreading out its rich variety in the splendid rainbow. So the rays of truth passing through different minds of different refracting powers, exhibit shades of difference which run imperceptibly into one another, and again unite to yield synthetically the primitive truth.

The claim by any one church to a continuation of the existing monopoly, affords proof of that Church being already corrupted by it. "It is easier for a camel to go through the eye of a needle than for a rich man to enter the kingdom of Heaven." A church is a body of christians, and must therefore exhibit the collective character of the several parts. Rich pastors and congregations need special circumspection, and will experience all the christian *vis inertiæ* which belongs to the individual Dives. Hence it may be feared a Church of even primitive excellence, may be so lulled with worldly ease, so dilated with Reserves, and so encumbered with aggrandizements, as to be obliged to leave the narrow way for that broader one which leads to ecclesiastical destruction.

But here, let us take the benefit of their vision. They see clearly and most justly the inexpediency of allowing the other Churches to enjoy the favor, wealth and patrimony of the State. I look at their exclusive pretensions through the same medium, and as clearly discover them to be alike dangerous and unchristian. "As they judge let them be judged;" and as they would "mete out to others, let it be measured to them again." In surveying from their mountainous station the village Churches in the valley beneath, they inspect them, as it were with telescopic aid, and rightly judge it unwise to transplant them from that spiritual kingdom which "is not of this world." But unfortunately when reverting to their own condition they look through the further end of the telescope and are led into the strangest optical delusion. Let them fairly turn round the magnifier of truth upon their own pretensions and the charm

will be dispelled, the illusion will be done away, and the Church will return to her ethereal clime, and aspire rather to light the world than to be lighted by it.

Toleration is often thought a very gracious thing; and both political and ecclesiastical moderation is boastingly conceded to dissenters under the license "to think as they please." No thanks are due for it. We can think in spite of bulls and acts of Parliament to the contrary. Mind is an empire of its own; and it is a glorious thing we are so constituted by nature that we must think and do think beyond the reach of tyrants. Were it possible, perhaps an over careful majority of this very Assembly would legislate away our thinking on the very subject under debate. There is, therefore, no merit in leaving, from necessity, our fellow christians in undisputed possession of those intellectual operations which are given by God before whose tribunal alone, their purity can be tried. But this boasted moderation is exercised in a way as objectionable in principle and mischievous in practice as the fire and faggot.—Learned gentlemen would be shocked at the proposition to burn at the stake or pierce with the bayonet in order to make christians conform to the Established Church. This tenderness, however, for the body, ill accords with the daily barbarity towards the mind. There is no virtue in merely substituting moral for physical force.—The method may have more refinement, yet not be less ignoble. The Indian who scalps the head is really not more savage than he who breaks the heart. An affectation of tenderness and liberality by making physical violence give place to a series of brutal and painful influences upon the mind, is an imitation of the conduct of Julian, the apostate, wholly unworthy the age and country in which we live. It is only a different set of base means to gain the same base end. Let us compare the ancient with modern Julians. The learned and impartial Dr. Mosheim in his ecclesiastical history, makes the following observations respecting the ancient Julian:—

"It is true, this prince seemed averse to the use of violence in propagating superstition, and suppressing the truth; nay, he carried the appearances of moderation and impartiality so far as to allow his subjects a full power of judging for themselves in religious matters, and of worshiping the Deity in the manner they thought the most rational, But under this mask of moderation, he attacked Christianity with the utmost bitterness, and, at the same time with most consummate dexterity. By art and stratagem he undermined the church, removing the privileges that were granted to Christians, and their spiritual rulers; shutting up the schools in which they taught philosophy and the liberal arts; encouraging the sectaries and schismatics, who brought dishonor upon the gospel by their divisions; composing books against the Christians and using a variety of other means to bring the religion of Jesus to ruin and contempt."

Modern philosophers of the same school are equally decided in renouncing force, and are equally dexterous in the use of those means which act upon the frailties of our common nature. For example: the churches now excluded from the wealth and privileges of our provincial hierarchy are invited to contemplate its tempting aspect, and to partake of its good things upon a dutiful conformity. This temptation acts upon men of all characters and degrees of moral strength; it acts not for a day but for years and generations while the system lasts. It insures not a comformity of the heart, (a secret known only to the heart and the Searcher of hearts) but a conformity to external regulations and subscription to 39 articles. But the profession of the tongue is not always the confession of the mind; and if, therefore all good men are not in this Eden tempted to taste the inviting fruit, it will certainly be feasted upon by the less scrupulous and more compromising men of the world, the very men who most need to be taught the purity of the gospel and self denial of the cross. All the wealth and privileges of the favored Church are carefully barricaded, leaving a narrow entrance guarded with a sign, upon which is a superscription of the condition of entrance, viz: "Clergy Reserves and appendages! Terms:—Subscription to 39 Articles and support the Establishment!" This allurement to the mind is really more effectual than the rack to the body — for the former wears the mark of independant choice, while the latter rouses all of human nature to resist that coercion which would necessarily stamp success with a cowardly acquiescence. Learned men are now-a-days not for punching the body, but so to speak, for punching the mind; not for putting our corporations on the rack, but for torturing the mind into conformity by wounding it through the sting of pride under exclusion, of mortification under unmerited disabilities, and of pungent humilation under a blazoned inferiority.

It is true the excluded churches are allowed an option; but it is not an option which is honorable in its moral or pure in its spiritual character. It is not a simple option, as it ought to be, between *truth* and *error*. The invitation is general and seems generous—"Come, sister churches, within the precincts of our prosperity!" But when they arrive at the confines the gate is shut!—What is the watch-word for opening it? What is the price of admission? Conformity! Well; this is refused—what is the answer? Then stay without and STARVE. Thus temptation on the one hand and privation on the other, are substituted for fire and faggot, inquisition and the sword. Other Christians must either obtain these worldly bounties by joining a communion from which they dissent, or lose what no others are better entitled to than themselves for conscience sake. This is inconsistent with the whole tenor of scripture, which teaches us to let truth "have free course and be glorified." It once fell in my lot when engaged in the practise of the law, to draw a will by which the father provided that his son should inherit his property, if at the age of 21 he should be a member in communion with

the Roman Church, and if not, the estate was to be applied to other purposes and uses. There is scarcely a father or son who does not feel an instinctive repugnance to this arrangement. It unnecessarily places a young man in a fearful conflict between the loss of his property and the loss of his faith. And from the frailty of human nature (which from its very frailty should fly temptation) it would not be strange should a youth so situated keep the property and "go away sorrowful." The principle is the same in the case before us on a national scale. The King as the father of his people is made say "my loyal and beloved subjects; I have a vast and rich domain which I have of my mere grace and favor exclusively bestowed upon my Protestant Episcopal Church; such other Churches as shall come within its pale shall partake thereof, but such of my loyal and christian subjects as adhere to their schismatic faith, I leave to hunger and thirst under the system of voluntary contribution."—If the voluntary system is sufficient for the excluded churches, it is sufficient for all; if insufficient, why should they be denied the bounty which, it is said, they need? I come, therefore, to the conclusion that if such Executive favors are to be given to any christian churches in our community, they should be given to all; but as such a lucrative alliance with the State is inexpedient, anti-christian and unsafe, it should neither be countenanced in any, nor arbitrarily confined to one. Let me inquire into those effects on a religion which has ever followed this community of interest between it and the State. Paganism has been through many ages and in many countries supported by the State. But during all those ages was any heathen mythology ever purified into christian excellence? It has not only tested the experience of every age, but of every form of government; and yet while history has not transmitted a solitary instance of reciprocal good, it has fearfully recorded the growing corruptions of both. If governments corrected none of the errors of heathenism, upon what ground can we expect them to add to the value, the purity or the perfection of christian truth? Paganism wedded to the State, and sharing its learned ease, wealth and splendor, began, probably with a Jupiter; and under this boasted alliance. gods grew in number, till, fancy exhausted by impiety of further images, reared "an altar to an unknown God;" which moved the intrepid Paul emphatically to exclaim "Ye men of Athens whom therefore ye ignorantly worship, him declare I unto you."

Governments not only corrupted Paganism itself, but combined with it to shut out the light of truth. The people were taught to regard an attack on religion as an attack on the State connected with it. They were to stand or fall together. Hence when Socrates glimpsed by the light of nature, the existence of only one God and the immortality of the soul, he was charged with impiety against a State religion, with a sort of treason against Greece and Grecian gods. Did the Government welcome this spark of Socratic truth, and husband it into a flame to lighten the Gentiles and dispel the gloom of heathen superstition in the world? No—They poisoned him. Now if the religion had not been the religion of the State, and the people had been allowed, as matter of right and practice, to think on those subjects and search out the truth wherever it could be found, it never could have been alleged as a crime against Socrates, or have furnished his enemies with such means for his destruction.—This mixture of politics and religion made them respectively more formidable and unrelenting; for each upon the usual law of reciprocity endeavored to sustain the other in the exercise of power and the disposal of their victims. When an artless child with the simplicity of one in 1836 made choice of the ornament of a goddess instead of a toy, did a protecting government prevent its being butchered, for alleged impiety, at the foot of the statue?

This political religion of paganism armed it with greater and fiercer power against the earlier christians; and to my mind an everlasting warning against it is written in the blood (a deluge of it too) of those martyrs, whose peaceful labors would easily have subverted idolatry, had it not been supported against them by the State.

Let it not, Sir, be forgotten, that from the beginning of the world to the coming of the Messiah, natural religion was open to mankind—It's great truths were expressed (if I may use the phrase) in the most intelligible hieroglyphics in the earth and in the heavens. They saw the rising and setting of the Sun in all that majesty which has commanded the admiration of every age; they beheld an inconceivable profusion of worlds scattered through the various constellations or collected in the milky-way. Descending to a lower sphere, they saw those winged vapours which sometimes shroud the atmosphere with a tempest, and at other times exhibit a natural kaleidescope of what is splendid in optics and magnificent in scenery, while from the same source they welcomed almost as often as their wants recurred, those genial showers which cooled a sultry air and refreshed both the animal and vegetable kingdoms. Turning their eyes to things more immediately about them upon the surface of the earth, they saw masses of matter, presenting upon a scale of less magnificence much that is striking and wonderful. They saw the living garniture of fields, and the progressive development of vegetation, from the sowing of the seed to the maturity of the plant; and the structure and laws of life in the higher order of animals, were even more demonstrative of creative wisdom and beneficence. Even inanimate things are stampt with peculiar laws, admirably suited to the wants and happiness of man; and the very chrystal, tenacious of its character, assumes its appointed form though passed through the chrystalizing process a thousand times over. Was not this a divine revelation for them to read and study? It has been said "if there was a God or a message from him,

it would be written in the sky:" and so it is, and ever has been.

But how is it this book of nature was so long open to the Pagan world without avail? Why was this volume forsaken for an ideal mythology? Why was natural religion, with its abundant testimonies, superseded by artificial idolatry? In an eminent degree because Paganism was upheld against it by the power, wealth, and splendour of the State with which it was associated. Perhaps Paganism was natural religion, which in a long course of time received under human government a debasing alloy, till it retained scarcely a vestige of its purer origin. It was fearful odds for mankind, in the pursuit of truth, to find arrayed against them error, based upon the law, enriched and favored by the executive, and so wrapt up in imperial splendor and superstitious sanctity, as to arrest every attempt to correct or purify it, as treason against the State, sacrilege against the temples, and felony against the Gods. Hence paganism proved hostile to the early christians; and under Nero, about 30 years after the death of Christ, they were put to death, according to Tacitus, with exquisite cruelty; and to their sufferings the Emperor added mockery and derision. Some were covered with the skins of wild beasts and left to be devoured by dogs; others were nailed to the cross; numbers were burnt alive, and many covered with inflammable matter were lighted up when the day declined, to serve as torches during the night. Thus it appears that idolatry, intrenched in the State, has been uniformly corrupted by it, and has ever fiercely opposed the progress of natural and revealed truth. And I now ask, has not christianity from its confederacy with the kingdoms of this world, suffered similar contaminations of its purity and retardation of its progress? I collect from the most accredited writers upon ecclesiastical history, that the christian church upon the very first embraces of the State under Constantine was deteriorated. This is not a mere point of speculation or reasoning; it is a matter of fact to be determined by historical testimony; and the weight of the authorities produced must not be undervalued, because in this transient discussion they are unavoidably limited to a few. But those few shall be clear and decided. The following passage is read from Moshiem Vol. 1, page 95.

"The additions made by the Emperors and others to the wealth, honors, and advantages of the clergy, were followed with a proportionable augmentation of vices and luxury, particularly among those of that sacred order who lived in great and opulent cities; and that many such additions were made to that order after the time of Constantine, is a matter that admits of no dispute. The bishops, on the one hand, contended with each other, in the most scandalous manner, concerning the extent of their respective jurisdictions, while, on the other, they trampled upon the rights of the people, violated the privileges of the inferior ministers, and imitated, in their conduct and in their manner of living, the arrogance, voluptuousness, and luxury of magistrates and princes. This pernicious example was soon followed by the several ecclesiastical orders. The presbyters, in many places, assumed an equality with the bishops in point of rank and authority. We find also many complaints made at this time, of the vanity and effeminancy of the deacons. Those more particularly of the presbyters and deacons, who filled the first stations of these orders, carried their pretensions to an extravagant length, and were offended at the notion of being placed upon an equal footing with their colleagues. For this reason, they not only assumed the titles *Archpresbyters* and *Archdeacons*, but also claimed a degree of authority and power much superior to that which was vested in the other members of their respective orders."

In the same volume of that learned historian referring to the same century we find the following observations:

"When we cast an eye towards the lives and morals of Christians at this time, we find as formerly, a mixture of good and evil; some eminent for their piety, others infamous for their crimes. The number, however, of immoral and unworthy Christians began so to increase, that the examples of real piety and virtue became extremely rare. When the terrors of persecution were totally dispelled; when the church secured from the efforts of its enemies enjoyed the sweets of prosperity and peace; when the most of the bishops exhibited to their flock the contagious examples of arrogance, luxury, effeminancy, animosity, and strife, with other vices too numerous to mention; when the inferior rulers and doctors of the church fell into a slothful and opprobrious negligence of the duties of their respective stations, and employed, in vain wranglings, and idle disputes, that zeal and attention that were due to the culture of piety and to the instruction of the people; and when (to complete the enormity of this horrid detail) multitudes were drawn from the profession of Christianity, not by the power of conviction and argument, but by the prospect of gain and the fear of punishment; then it was, indeed, no wonder that the church was contaminated with shoals of profligate Christians, and that the virtuous few were, in a manner, oppressed and overwhelmed with the superior numbers of the wicked and licentious. It is true that the same rigorous penance, which had taken place before Constantine the Great, continued now in full force against flagrant transgressors, but when the reign of corruption becomes universal, the vigor of the law yields to its sway, and a weak execution defeats the purposes of the most salutary discipline. Such was now unhappily the case; the age was sinking daily from one corruption to another; the great and the powerful sinned with impunity, and the obscure and the indigent felt alone the severity of the laws."

This accords with the opinion of that eminent divine Bishop Newton, who in his work upon the

prophecies, 2nd volume, page 262 affords the following quotation :—

"Though the establishment of Christianity by Constantine, added much to the temporal prosperity, yet it contributed little to the spiritual graces and virtues of Christians. It enlarged their revenues and increased their endowments; but it proved the fatal means of corrupting the doctrines and relaxing the discipline of the church. It was attended with this peculiar disadvantage, that many clave to them with flatteries; many became Christians for the sake of the loaves and fishes, and pretended to be of the religion only because it was the religion of the Empire. Eusebius, who was a cotemporary writer, remarks that one of the reigning views of the times was the dissimulation and hypocrisy of men fraudulently entered into the church, and borrowing the name of christians without the reality."

The learned Moshiem relates with expressions of regret, the degeneration of the primitive church, as he terms it, "towards the form of a religious monarchy."—The Bishops aspired to higher degrees of power and authority than they formerly professed; and not only violated the rights of the people, but also made gradual encroachments upon the privileges of the Presbyters. They assumed in many places a princely authority; appropriated to their evangelical function, the splendid ensigns of temporal majesty; a throne surrounded with ministers, exalted them above their fellows; and sumptuous garments dazzled the eyes and the minds of the multitude into an ignorant veneration for their arrogated authority. The Presbyters ambitiously imitated the example of the bishops; and there followed to religion a train of melancholy and dishonourable consequences, over which Mosheim regrets that

"Truth could not allow him to spread a veil."

What was true of christianity and of christians in those ages, was realized by the established church in later times. For this truth we have also the authority of a Bishop.

Bishop Burnett says, "I have lamented during my whole life, that I saw so little true zeal among our clergy. I saw much among the clergy of the Church of Rome, though it is both ill directed and ill conducted. I saw much zeal likewise throughout the foreign churches. The dissenters have a great deal of zeal among them; but the main body of our clergy has always appeared dead and lifeless to me; and instead of animating one another, they lay one another to sleep. Unless a better spirit possesses the clergy, arguments, and what is more, laws and authority will not preserve the church."—*Our Times, Vol. 2, p.* 440.

Such has been the recorded and attested effects of the world on the Christian church!

It follows, Sir, that when a church has received this modification from the State, it must have an injurious bearing upon individuals and society at large. Take one or two examples. Bunyan freely enjoyed his half infidelity and looseness of living, until his subsequent conversion and professed piety. He no sooner, however, became an open Christian according to the suggestion of his faith and the dictates of his conscience, than his nonconformity to the State-nourished church was brought up against him as a crime. He had indeed, freedom and liberty; but it was a freedom and liberty of choice between ecclesiastical conformity or immurement in the dungeon. To punish a man for not admitting a colour to be *white* which he perceives and cannot help perceiving to be *black*, is not more absurd or tyrannical than to punish him for not professing to believe that to be truth which he verily believes and cannot help believing to be error. Yet in Bunyan's case, (to illustrate thousands of others) the Church and State combined to imprison him for 12 years! During this protracted confinement, as the body languished, the spirit became more ethereal and divine—and he composed for the lasting benefit of the world his Pilgrim's Progress, a work so pure in its diction and so classical as an Allegorical production, as to command, even to this day, the interest of the christian reader, and the praise of the fastidious critic. Come down to later years and read a warning from the case of the late Rev. Dr. Carey and his coadjutors, who full of Missionary zeal—(the noblest kindled in the human mind) proceeded to British India to convert the heathen—On their arrival the united Church and State met them with an interdiction. Banished by them as British subjects aspiring to do their duty as British christians to British heathens in this British empire, they took refuge with Apostolic intrepidity and zeal in a neighbouring Danish colony; and there they established a Press, and thence, as it were, under foreign protection and toleration, they successfully and gloriously bombarded British India with Divine truth.

Next look into the effects of this system on whole communities. There are those in this assembly in whose veins flows Irish blood; but afflicted Ireland needs not national feeling to insure sympathy under her wrongs. How every sentiment, patriotic and religious, would rise in arms within us, were it now enacted that every Protestant in Canada should be taxed to support the Roman Catholic Church! Yet in Ireland, after years of unavailing remonstrance and complaint, the Roman Catholics, with religious scruples, as strong and sincere as our own, are obliged, besides the support of their own ministry, to pay tithes to the very established Protestant Episcopal Church from which they dissent. Just as if heathens should say to us, think as you please, but pay us the price of the sacrifice; think as you please, but bring to our altars the victims we offer up. To how melancholy a degree must the church be corrupted by the State to put forward these exclusive pretensions, and combine with the civil power for the exaction of an unjust and unchristian tax.

"Hark! heard you not that piercing cry,
Which shook the waves, which rent the sky."

Read the tragedy of such a system in the tale of the widow embalmed in her tears.—You know, Sir, the massacre to which I refer. It was in the collection of a Catholic Tax for Protestant uses, that a minister of the Church and State commanded the musket to be fired, which laid the son weltering at the mother's feet! Must not such a church have been corrupted by the world, and forgotten the example of Him who restored but never destroyed life; who comforted the poor widow of Nain, and touching the passing bier, said,—Young man arise! and "delivered him to his mother."

What is our condition? Suppose there were here a pagan ascendancy patronized by the state —suppose them to say to christians, as impious against their idol-gods: "You are unworthy to occupy sepulchral ground where safely to bury your dead with an obolus to pay old Charon to ferry you across the river Styx; and let chance or avarice with impunity disturb the ashes of your dissenting dead. Do you wish to marry? Let your issue be bastard from generation to generation unless you present yourself before the statue of Venus and there receive the benediction of her priest to legalize your union." How similar are the above sentiments to what were expressed towards Canadian dissenters by the ascendant church only a few years ago. The dissenting churches in this country were unable to hold land on which to build places of public worship or to bury their dead. It was one of the exclusive privileges of the English Church! and so powerful was their political influence and ascendancy, that when in parliament 12 years ago, I labored with mortifying failure, as others have done before me, not to procure for the excluded churches a grant of land, but only a right to purchase and hold enough for those purposes required by decent consideration towards the feeling of surviving friends. With equally humiliating want of success, it was for years attempted by the late hon. and learned Speaker Bidwell to secure to dissenters the right of being married by their own ministers so as not to compel them either to live in legal adultery or offer themselves under a violation of feelings, or of conscience, or of both, at the exclusive altar of the provincial hierarchy. Redress in these cases has, it is true, been at last obtained. But let it not be forgotten, it was obtained after a period of protracted and fruitless legislation, enough to warn us against the danger of giving one church the ascendancy over another, or the enjoyment of rights and privileges no theld in commonwith their fellow christian bodies in the same community. Our State-church still maintains its exclusiveness in the charter of King's College. The price of learning there, is subscription to the 39 articles —[the hon. member for Lennox and Addington (Mr. Cartwright) here interrupted stating that it was an error, as such subscription was only required from the Professors and members of the College Council]—Very well, sir, I will take the proposition as stated by the honorable member, and thank him for the correction.—A most learned man presents himself for a Professorship, eminently qualified to teach, and fortified with every testimonial of merit and capacity; his credentials are recognized, and the same breath by which his rare services are a most promised welcome in these theatres of science, announces a condition,—SUBSCRIPTION TO THE 39 ARTICLES—Perhaps he says, "I am no theologian; I look to the Bible, not the book of liturgy, for my creed; besides I am a young man and a young christian, unwilling to subscribe to 39 articles of faith comprehending many religious and metaphysical subtilities; and my premature subscription *now* might interfere with the freedom of my conscientious dissent from any of them in future life—pray therefore accept my services in the science I profess." The church promptly replies,—"away with the schismatic!" If the highly gifted Dr. Chalmers, the literary and theological boast of Scotland, yes, of Britain, was to present himself for Academic honors in Upper Canada, he would be treated and repelled at the great seat of Canadian learning as a heretic. And could you wave a magic wand over the illustrious tomb of Robert Hall, and tender his unrivalled eloquence, piety and learning to serve, in our University, the interests of religion, or teach the philosophy of morals, he would meet with the same disdainful rejection. The exclusive church has acquired the same exclusive charter, and still retains it notwithstanding years of remonstrance. The English Universities are in like manner the property of the Church of England: and the exclusive rights they have held for centuries, they still hold in faithful monopoly. Hence we learn the danger of granting any other than equal civil and religious rights to the whole community; since we find that an invidious ascendency once granted, can be long and tenaciously held to the prejudice of the most learned and pious christians. The history of the sacramental test in England inculcates the same instruction against religious monopolies. Until lately no dissenter could fill any public or corporate office without first taking the sacrament at the altar of the established church. Various offices of honor and profit were held up to the competition of christians; but to qualify themselves for the worldly situations they were to eat of the body and blood of their Redeemer, no matter what their inward faith or defective preparation. Such offices were virtually held by the hierarchy, as bribes, to induce men to become, not believing christians, but nominal professors of a church and state. In like manner our provincial hierarchy claim exclusively to enjoy the Clergy Reserves. They invite you within the pale of their church, by simple subscription with the pen! Lo! How easy it is to be registered a christian on earth: but it is the wrong way to secure their registry in heaven. Come within the legal precincts of the church, and you share her vast estates; but if you conscientiously dissent, you are doomed to stay without, admiring the grapes of her favored vineyard, and calling them sour, till tantalized by protracted tasteless contemplation, some may chance to relieve the scruples of non-conformity, and qualify to share their luxurious fruit. Hume,

not so great a friend to religion as he was to monarchy, gives the following account of the effects of political interference with religion and of the attempts to enforce conformity:—

"These controversies had already excited such ferment among the people, that in some places they refused to frequent the churches where the habits and ceremonies were used; would not salute the conforming clergy; and proceeded so far as to revile them in the streets, to spit in their faces, and to use them with all manner of contumely. And while the sovereign authority checked these excesses, the flame was confined, not extinguished: and burning fiercer from confinement, it burst out, in the succeeding reigns, to the destruction of the church and monarchy."

And again,—

"The fatal St. Bartholomew approached the day when the clergy were obliged, by the late law, either to relinquish their livings, or to sign the articles, required of them. A combination had been entered into by the more zealous of the Presbyterian ecclesiastics to refuse the subscription; in hopes that the bishops would not venture at once to expel so great a number of the most popular preachers. The catholic party at court, who desired a great rent among the Protestants, encouraged them in this obstinacy, and gave them hopes that the king would protect them in their refusal. The king himself, by his irresolute conduct, contributed, either from design or accident, to increase this opinion. Above all, the terms of subscription had been made strict and rigid, on purpose to disgust all the zealous and scrupulous among the presbyterians, and deprive them of their livings. About 2000 of the clergy, in one day, relinquished their cures; and to the astonishment of the court, sacrificed their interests to their religious tenets. Bishoprics were offered to Calamy, Baxter, and Reynolds, leaders among the Presbyterians; the last only could be prevailed on to accept. Deaneries and other preferments were refused by many."

Let us take from the same author, another specimen of the spirit engendered by political ascendancy in a church.

"By the act of uniformity, every clergyman, who should officiate without being properly qualified, was punishable by fine and imprisonment; but this security was not thought sufficient for the church. It was now enacted, that wherever five persons above those of the same household should assemble in a religious congregation, every one of them was liable, for the first offence to be imprisoned three months, or pay five pounds; for the second to be imprisoned six months, or pay ten pounds; and for the third to be transported seven years, or pay a hundred pounds."

This act was not a dead letter; and when church and state were thus linked together, with sufficient power to procure such an act of Parliament, it is not singular that the contagion also infected the courts of law, poisoned the minds of the Judges, and contaminated the fountains of national justice. Thus Wagstaff and others of a jury, in the age of Sir Mathew Hale, were fined 100 marks a piece, by Keeling, Lord Chief Justice of the Court of King's Bench, "because though evidence was given before them that had many persons above the number of five been assembled in such a place, *and had Bibles with them*, and were *suspicious persons and sectaries;* yet the jury would not find them guilty, of keeping a conventicle, upon the late act, because there was no full evidence that they were assembled to exercise any religious worship, as the act runs. And the Jury were committed till they paid their fines."

"And now the court of exchequer was moved in their behalf to remove by certiorari the record of their fines and estreats: to which the Attorney General said, that that concerned the King only, and therefore they were to be removed at the suit and desire of the King only, and not otherwise, and he seemed very angry that such motion was made;" and the recorder of London said, "that those fines belonged to the city by their charter, so that their court had nothing to do with them." They were afterwards brought into the King's Bench upon a habeas corpus; but were not bailed till they had paid their fines."

Such is or at least recently was the law in England, and within these few years a minister of the Established Church was subjected to a complaint for violating this act of parliament by attending a domestic prayer-meeting for the worship of God. This regulation, as unjust to christians as it is insolent to Heaven, is the offspring of the connection between Church and State.—But we gather from the history of Scotland still more striking and fearful evidence of the tyranny of the Church and State over a dissenting country:

"But the chief circumstance, whence were deprived all the subsequent tyranny and disorders in Scotland, was the execution of the laws for the establishment of episcopacy: a mode of government, to which a great part of the nation had entertained an insurmountable aversion. The rights of patrons had been for some years abolished; and the power of electing ministers had been vested in the kirk-session, and lay elders. It was now enacted that all incumbents, who had been admitted on this title, should receive a presentation from the patron, and should be instituted anew by the bishop, under the penalty of deprivation. The more rigid Presbyterians concerted measures among themselves, and refused obedience: they imagined that their number would protect them. Three hundred and fifty parishes, above a third of the kingdom, were at once declared vacant. The western counties chiefly were obstinate in this particular. New ministers were sought for all over the kingdom; and no one was so ignorant or so vicious as to be rejected. The people, who loved extremely and respected their former teachers; men remarkable for the severity of their manners, and their fervour in preaching; were inflamed against these intruders, who had obtained their livings under such inviduous circumstances, and who took no care,

by the regularity of their manners, to soften the prejudices entertained against them."

The fate of Scotland has been the recent fate of Upper Canada. The people have ever been averse to the establishment of a dominant church with any peculiar privileges or endowments from the Government. They have earnestly and repeatedly prayed against it by petitions to the King, numerously signed, for many years past; and this direct expression of their almost unanimous desire, has been seconded by their representatives in this House, in successive Parliaments. Yet recently the united wishes of the people have been painfully and alarmingly violated by forcibly establishing amongst them, in Scotch fashion, the very Episcopal ascendancy they have deprecated. Fifty-seven rectories have in open defiance of universal sentiment, been erected within our borders, richly endowed, and armed with exclusive ecclesiastical and spiritual rights and privileges; while with similar defiance, clergy reserves are sold under an English act of Parliament passed without our knowledge and consent, to the amount of £70,000, and that amount abstracted from our impoverished land, and paid into the military chest. This is despotism as undeserved by Canada as it is unworthy the parent state. We have not the physical strength, if we had the moral courage of the Scotch, to resist the evil; and therefore necessity may doom us to bow to wrongs, which, because of our weakness, it was ungenerous to inflict. How keenly are we at this hour feeling the scourge which has thus been visited upon us by the ascendancy of the church which in England maintains her adulterous union with the State. Perhaps Providence may have in reserve for us some unseen way of escape from impending corruption of religion, and wound of the dearest privileges of an outraged dependency.

The proposition of the learned member for Toronto to divide these Clergy Reserves among a select number of churches is equally, if not more, objectionable than the devotion of them to one. Upon what principle is this curious selection to be made? Is it to be upon the principle of *numerical strength?* You might as well measure a man's conscience by his corporal dimensions! Is it to be upon the principle of orthodoxy? Then the learned gentleman must be the Prometheus of the House to draw fire from Heaven to subject the various creeds to its more than human test in the crucible of truth. Or will he assume to be our Inquisitor-General, and with the aid of a Select Committee summon the Christian community to answer his searching investigation? It would be a singular scene: only imagine it:—*Inquisitor.*—Do you believe in the Trinity? *Witness.*—That word is not in the Bible, pray what do you mean by it? *Inquisitor.*—I am not expounding my faith; I am enquiring after yours. *Witness.*—My faith is between I and my Maker. *Inquisitor.*—Report this contumacious fellow to the Hon. House that he may be committed to the terrible custody of the Sergeant-at-Arms. So that we might at last arrive at that very physical force, thought too gross for the modern refinement of those who direct their keener operations against the spiritual part of man. Why should any be *selected?* Why should any be excluded It is proposed, I understand, to limit the distribution to the four principle churches, viz.:—the Established Church of England, the Roman Catholics, the Scotch Kirk, and the Wesleyan Methodists. If it is just no longer to exclude the three last, it must be unjust to continue the exclusion of others. Enumerate as many reasons as you please for the future admission of any three churches, and each of those reasons will afford an appeal equally forcible in behalf of the neglected ones. The four churches above mentioned are called the principal or leading ones; and it seems, they are on that account, intitled to consideration. But if they have arrived at their present importance without your aid, it is evidence, the best evidence too, of their ability to maintain it. The great difficulties have been already overcome. Under Providence these Churches have become organized, effective and evangelically influential. They have been built, certainly not upon acts of Parliament, or Clergy Reserves. The admission of them is not pretended to be upon the ground of their poverty or weakness, or from the fear they cannot prosper for the next, as they have done for the past, 40 years. Can a christian, then, put his hand on his heart and say, that the proposed extension of the ecclesiastical wealth, is either necessary or intended for the benefit of churches which have heretofore been planted, watered, and matured into temporal independence and spiritual prosperity, with the all sufficient aid of the divine blessing? When christianity was so diffused through all countries, as to be said "to fill the world;" when christians were "innumerable even in distant provinces;" when, says Arnobius, "men of the greatest genius, orators, grammarians, rhetoricians, lawyers and physicians," became converts, in the face of pagan threats, executions and tortures; when mankind was so universally christianized, that there remained of the world only a remnant for easy conquest: when the force of truth under the spirit and providence of Heaven had gained this ascendancy; then Constantine offered his alliance and imperial favor. So, you are the Constantines of the day. Seeing that certain churches have firmly taken root and grown into general christian consideration and respect, you obtrude upon them your Clergy Reserves and Parliamentary alliance. As the church under Constantine was corrupted and impaired, so will our religion droop under the patronage with which you may overshadow it.

You ill bestow your parliamentary charity. It is usual to give to the needy: but on this occasion it is proposed to enrich those who have already enough. The course pursued would appear more plausible, were aid proposed for the smallest churches whose age and resources might be considered as presenting claims for support. But it is unaccountable conduct to pass over those who least to those who most want! If in-

deed it were a question of worldly policy; if it were a conspiracy on the part of the State to exercise through an ecclesiastical connection, a greater degree of political influence in the community; if it were intended by a new relation with these religious orders, to place them above their congregations in temporal matters, and thereby render them freer agents as executive functionaries; if it were desired to weaken the reciprocity between pastors and their flocks, and sacrifice the endearing relations usually subsisting between them, for the purpose of creating as far as possible an identity of feeling and interest between ministers of religion and ministers of state; if in order to impart to government affairs the direct or indirect sanction of religion, and to secure for those affairs the pulpit, domestic and itinerant advocacy of christian teachers, it were resolved to encourage an influential priesthood dependant on the Crown; then indeed it would be obviously wise and consistent to seek out the most potent and serviceable allies, who would bring to play the greatest amount of religious ascendancy, popular consideration and secular influence. But guided as the House is, or ought to be, solely by a desire of doing good to religion, for religion's sake, and the promotion of its friendly operation and spiritual predominance and diffusion, it is unaccountable that there should be a predilection for the most flourishing churches, and not for those minor ones, which might (if the Clergy Reserves can do it) be filled with a warmer zeal and transported into a nobler and holier sphere of ministerial operations. The payment of one church by the state is thought of dangerous tendency. How much more alarming is the proposition to pay four? The danger as it affects both our political and religious condition is increased by it beyond geometrical proportion. To add the leaven of the state to one church is bad; to add to it four is fearfully worse. While there is only one dominant church the vigilance of the rest acts as a salutary check. The excluded churches are necessarily united for their common vindication, and our liberties, religious and civil, have, therefore, from them the guarantee of an interested co-operation. But when you weaken those churches by magnetising the more potent ones with the Clergy Reserves, and thereby drawing them from this christian confederacy you leave the rest in a helpless and debilitated condition. It is the application of a political maxim to ecclesiastical affairs, "divide and govern."

The endowed churches will have an additional bond of union; but it will be of a worldly kind. The English church has long asserted and maintained their exclusive right; and it would be a calumny against that church to assume they have been more pertinacious than will be their new associates. Hence they will combine to maintain the vast estates conferred upon them: because the rights of each can then only be certainly preserved by sustaining the rights of all. They may indulge in the utmost acrimony against each other for alleged heresies, and yet be faithfully banded together to preserve the inviolability of their exclusive temporalities. They may dispute with which church should, as an affair of honor, take rank and precedence, and which should have the largest share, or upon what principle the division should be made; but expect not any concession that such superiority can be claimed by others, or that others could, without sacrilege and crime, invade their vested rights.

There is an obvious charm in the operation of these ample donations. Chemists often discover an ingredient which will procure the union of substances, mutually repellent; and the grand desideration is now found out for holding the most transcendant ecclesiastical contrarieties in harmonious solution. Protestants and Roman Catholics, Kirk and Methodists, are reduced together by the common solvent of clergy reserves; and I verily believe there would be no precipitate from the addition of a little paganism. The wolf and the lamb, the leopard and the kid seem to mingle together in prophetic harmony. But in this case, it is not so much from the milk of human kindness as from the satiety of hierarchal participation. They take their seats at the festival of our public lands; and in language not borrowed from the book of Proverbs or the works of Solomon, they "pick the same bone," they "feather themselves together in the same nests," and they "feed at the same bread and butter."

Much, sir, as I respect many of my Catholic friends, I sincerely believe their church, as they sincerely believe mine, to be in fatal error. Each apprehends with regret, wholly free from unkindness, that the other will be damned. What course does it become us, under this belief, respectively to take? Can I agree to endow the Roman Catholic Church to enable them the more easily and effectually to propagate the very doctrines against which I protest? Can Roman Caman Catholics properly aid the cause of heresies, called damnable, with special appropriations? If religion is important, it is everything. To effect then, this worldly accommodation, ought we, by public grants, to accelerate the progress of error and hazard the salvation of immortal souls? Let every man answer these enquiries to himself, upon the principle of patriotism and the hopes of the christian.

Instead of giving these clergy reserves, I am ready and anxious, without fear of present or future consequences, to give them collectively and individually the BIBLE, "that they may read, learn, mark, and inwardly digest it." But I will not endow error. Nor will I legislate against it, because I heartily believe that the divine truth contains within itself all the necessary elements for its own achievements. I would as soon give Clergy Reserves to chemists to extract sun beams from cucumbers for the Sun. Remove all artificial obstructions, and light dispels the darkness wherever it shines. But if, invading the empire and prerogative of Heaven, you endow this darkness, and give it legislative locality and habitudes, you, more or less, obstruct the genial ray and eclipse the firmament of truth.

Instead of making a State provision for any one or more churches; instead of apportioning the clergy reserves among them with a view of promoting christianity; instead of giving pensions or salaries to ministers, to make them independent of voluntary contributions from the people; I would studiously avoid that policy, and leave truth unfettered and unimpeded to make her own conquests. Lawyers and Physicians have no clergy reserves. They depend upon the support of the community which benefits by their labors. The professions of law and physic are well represented in this Assembly, and bear ample testimony to the generosity of the people towards them. Will good, pious, and evangelical ministers of our holy religion, be likely to fare worse than the physicians of the body? or the agents for our temporal affairs? Let gospel ministers, as the scriptures say, live by gospel; and the very apostolic maxim that the workman is worthy of his hire, implies the performance of duty rewarded temporally by those who impose it. There is no fear the profession will become extinct from want of professors. Was there (any thing Locke may say to the contrary notwithstanding) ever a nation on the earth, however barbarous, without something of a priesthood? The aborigines of this continent answer in the negative; and the least civilized tribes have their professional functionaries to offer up their occasional sacrifices to the "great spirit." We have had too, from the earliest history of the Province standing evidence to the contrary in the history of the Methodist Episcopal church up to a recent period. That church was planted in the colony without the knowledge or consent of the government. The scattered settlements, otherwise destitute, were every where visited by her itinerant ministry, which increased with the population, and wants of the country, and acquired, under Providence, acknowledged distinction for the superiority of their numbers, for the devoted character of their piety, for the fervor of their preaching, for the sanctity of their lives, and for the converting influence so abundantly shed upon their highly-favored ministrations. They were, however, regarded by the government with jealousy and contempt; and subjected to indignity under vice-regal repulsion and parliamentary investigation. "Methodist" was a term of reproach; and an hon. member of this House was once expelled for methodistically recommending a collection of his friends to live according to the gospel they professed. Amidst contumely and opposition, however, they flourished almost beyond example. Devoted to the gospel, "all other things were added to them;" and perhaps there has not been, since primitive times, more striking evidence of the existence of "a Kingdom not of this world" swayed by a spiritual sceptre. Has the christian community, on the other hand, benefited by the late appropriations of the government to religious uses? or has the prospect brightened before the expected distribution of the clergy reserves? When, therefore, we find the christian church in the first three centuries flourishing against the State, and declining under its subsequnet patronage under Constantine; and when we see the same thing verified upon a smaller scale within the borders of our own country, surely we need not hesitate practically to believe the proposition that if truth is let alone it will prevail. Such was the advice of Gamalial; and let not learned members forget he was "a doctor of law." He opposed those whose object it was to support the established errors by punishing those who offered the truth. He fortified his position with striking illustrations, and closed his eloquent and dignified address with the following advice: "And now I say unto you, refrain from those men and let them alone; for if their counsel, or their work be of God, you cannot overthrow it." Lord Bacon (to the best of my recollection) has somewhere said, "when truth is left alone to grapple with error, who ever knew her worsted in the contest?" But our modern philosophers, instead of condescending to be children of truth, aspire to make truth a child to us, to put her into leading strings, wrap her in swaddling clothes, confine her in the nursery, and smother her with kindness under Acts of Parliament! Truth, however, is not an exotic or a hot house plant. It is indigenous in every country, congenial to every climate and the native of every soil. How can it be otherwise, since it proceeded from him who can be found and worshipped equally in every mountain top, in every valley and in every shade.

The course of nature is the course of Providence. It is the practice of every day to confide in it as sufficient to insure the continuance of those bounties which we receive as dependant creatures. Reposing without timid apprehension in a divine superintending care over material things why should we be distrustful of equal superintending care over spiritual things? Conscious of our inability to direct terrestrial powers, it is Pagan presumption, like Phæton, to ascend the chariot of the Sun, and drive with fearful temerity round the zodiac of religious truth. Will learned gentlemen assume to legislate for the clouds? Do, then, your work of supererrogation. Pass a law for a safety-fund of rain. Tax every man with the precautionary duty of periodically watering an allotted portion of the earth, as pabulum for the sun to distil the balmy dew, to supply the winged vapours of the air, to spread out the cloudy curtain of the sky and seasonably diffuse more genial showers. Does this seem absurd? Open then the eyes of the understanding and see that it is not less absurd to usurp the spiritual than the physical throne; not less absurd to assume to govern "a kingdom not of this world," than to govern the clouds for him "who rides upon the whirlwind and directs the storm."

In the things about us we witness the particularity of Providence, acting nevertheless, under the simplicity of a law which is equally the object of our gratitude and admiration. Let us judge of the certainty, simplicity, and efficiency with which he can govern his church, by the display of corresponding attributes in the works of nature.

He wields his almighty power not less for all that is little, than for all that is great. By the same apparent natural cause we see controlled the waves of the ocean swelling into tides, and the fluctuation of the least ripple upon the surface of a basin of water. From the same cause we trace the spherical shape of a planet, and of those morning dew drops glittering over the verdant fields like "oriental pearl;" and hence in the house of mourning you see drop after drop, distilled by sorrow, rolling globule after globule down the cheek. Therefore a poet, without indulging in mere poetical license, has justly and beautifully said—

> "That very law which moulds a tear
> And bids it trickle from its source,
> That law preserves the earth a sphere,
> And guides the planets in their course."

When it is considered that it is the same power that controls the stupendous movements of the universe, and the simple effervescence of a mixture, we should learn that the relative terms great and little applied to Him "are terms without meaning;" that his providence is equally universal and equally particular; that it is equally conversant with the events of nations and of an individual supplicant; that while it counts the stars of the firmament and the nebule of the milky way, it regards the falling of a sparrow, and numbers the hairs of his (Sol. General's) learned head.—This particularity of providence in material things affords no apology for a christian's distrust either of his will or ability to dispense the affairs of that spiritual Kingdom which he has himself established and covenanted to maintain for ever.

Will learned gentlemen pass a law in behalf of gravitation? Gravitation presents to the mind the vastest and sublimest conception within the compass of the universe. Wherever we go, yea, wherever our thoughts can reach, this all prevading power extends its illimitable influence.—We acknowledge its presence when we truckle a pebble along the ground, or trace the mariner's lead descending to abyss; we feel it in the heaving of the ocean, and recognise from it all the various and modified motions which the material world affords. Even if we leave the earth and wander wherever the imagination may choose to rove through boundless space, we find at every step as we travel from planet to planet, and from world to world, this mysterious power, so universally diffused as not to leave a point of space, or a solitary atom of matter unconscious of its presence or domain.--It is every where present and unceasingly active.—With this great truth proved to us to demonstration, can we fail to recognize the greater truth (which this glimpse of the glory of creation was partly intended to illustrate) that he who called all these things into being and upholds them by the word of his power, is also himself every where present and unceasingly active? Can it be difficult to believe of the Creator, however wonderful it may be, what we are obliged upon investigation to believe of what He has Created? The ancient Psalmist must have had something to supply the place of the illuminations of modern science, when without any knowledge of this all prevading law of gravitation, he thus so sumbliemly delineated the corresponding attributes of the God of nature; "Thou art about my path, and about my bed, and spiest out all my ways—such knowledge is too wonderful and excellent for me: I cannot attain unto it—whether shall I go, then, from thy presence? If I climb up into the Heavens, thou art there; if I go down into the bottomless pit, thou art there also.—If I take the wings of the morning and remain in the uttermost part of the sea, even there also shall thy hand lead me, and thy right hand shall hold me."—How strictly the law in this case corresponds to the lawgiver! In the contemplation of this stupendous subject, Newton expressed the thought (it has sublimity if not truth) that space, the very scene of such mighty works, was the sensorium of the supreme. And how nearly is that thought allied to one of divine authority, "in him we live and move and have our being." When therefore, we see the certainty and efficiency with which by one simple law of gravitation he upholds the great and the little everywhere in the material universe, and therewith "spreads his tender mercies over all his works," surely we have an ample guarantee for the certainty and efficiency of His Holy and all-prevading spirit in dispensing the affairs and consummating the glory of the Kingdom of Christ. We not only thus learn from the light of nature, that his providence is certain and efficient for the advancement of His Church, but we gather from revelation itself, the purely spiritual means by which he has ordained and promised alone to govern and superintend it. When a lawyer is asked by a client how the affairs of a deceased person shall be administered, he inquires for his will, from a careful perusal of which he collects the wishes and intentions of the testator.—He does not consider how he would dispose of his own affairs as a guide for administering those of another; he does not act the part of a mere critic or reviser of the document before him; nor does he presume to make interpolations in it, or arbitrarily to pursue or modify the terms prescribed by it.—He is satisfied honestly to expound the views of the testator as solemnly expressed in his will, and then honestly direct the administration accordingly. I now hold in my hand a last will and testament—Christians call it the New Testament; and it is our duty from it to gather and to follow the pleasure of the divine testator.—In our general reasoning and speculations on this subject we might err; but what we collect from this source, comes with that authority which it is a matter of prudence and duty to obey.—From the time our Saviour rejected all the Kingdoms of this world, and the glory of them, to the period of his ascension, we derive one consistent lesson respecting his Kingdom, the spirituality of its government, and its separation from the world. In the sermon from the mountain to great multitudes of people, a sermon embracing a variety of duties, he does not hint at Clergy Reserves, or endowments or national patronage. The very expression "Thy kingdom come" implies more what the nations should re-

ceive than what they ever could confer—and the concluding words, too,—"for thine is the *kingdom*, and the *power* and the *glory*, for ever," are so decidedly exclusive of the world, and such complete assumption of the whole dominion, that it plainly requires Kings, nations and parliaments to be rather prostrate Christians, than with anti-christian aristocracy to volunteer themselves PATRONS OF GOD.

Had it been intended to promote and sustain Christian Churches through the governments of the world, we might expect to meet with appeals to them in their behalf, when the infancy of those churches, according to all human calculations, most needed such interposition. Had it not been unwise and inexpedient, twelve kings their with political establishments, might have been Apostolized instead of the twelve disciples; and surely we might at least look for some admonitions to such civil authorities to afford, as a duty, their patronage and endowments. But I do not remember in the whole compass of the New Testament, a distant intimation of the kind. Christianity was to prevail against governments, but governments were not entrusted or commissioned to rear christianity. And now that christianity has prevailed against them, their obtruded patronage and endowments are as ill-timed, as they are unneeded, yea, pernicious. Upon commissioning his disciples to go into the world the Saviour said "behold I send you forth as sheep in the midst of wolves," and, "take heed to yourselves, for they shall deliver you up to councils, and in the synagogues ye shall be beaten: and ye shall be brought before *rulers and kings*, for my sake, for a testimony against them." And what was the testimony? *That they had patronized and endowed that state religion which they believed to be true and which they therefore sustained* according to the law of the land against the introduction of what they believed to be *error*. If testimony is thus borne against *them*, it lies equally against us. It will not, however, be a testimony against *them* for acting according to the dictates of their conscience and the requirements of the law: but for blindness unhappily produced by the corrupting influence of a system which assumed a censorship and dominion, not merely over morals, but over *religion*, a subject so foreign to their jurisdiction that its sphere exists solely between every individual and his maker. By erecting ourselves national judges of what is [illegible] religion, and making our belief of its truth our justification for exercising our parliamentary authority in its establishment and support, we invite by our example all the pagan governments of the earth under the same persuasion to ratify their error and provide means for the stability of their gods. Such an application of legislative power for the maintenance of idolatry is not to perpetuate it! And of what avail can it be to the christian? It would on the face of it, be an unavailing pain, for Canadians on the present day, to say, "Now we see our error, for we endowed the established church, sanctioned and endowed by the state."

Our Saviour was accused by state accusers, "the nation and chief priests," and of a State offence, "*by our law* he ought to die, because he made himself the Son of God;" he was arrested for it by State authority, "the band and captain and officers of the Jews;" he was taken before State authority, "Pontius Pilate in the judgment hall." It would, to my mind, be as correct to say that in England it was unlawful for judges and juries to entertain a complaint against offenders for non-conformity, when that law was in force, as to allege illegality against the above proceedings. As it is admitted, our Saviour, instead of being guilty of blasphemy, manifested the glory of God, and taught the religion of truth to mankind, so it must be admitted, the persons accused under the conventicle act, were only guilty of "having Bibles" and engaging in social worship of their Maker in the name of their Redeemer. In both cases the State exercised powers conferred by the law of the land, but in both cases it was a power, granted and exercised against the law of God as then expressed in natural and now revealed religion. An act might be passed establishing a new religion in Upper Canada, protected by penalties to be inflicted upon all our non-conformists, just as infidelity was proclaimed in France. The legal right would exist, but founded on a moral wrong, on an offence against God and the religious relation he bears towards his creatures individually. Hence our Saviour upon his arraignment pleaded:—1stly. That the subject matter did not belong to earthly judicatures, "my kingdom is not of this world." 2ndly. When the judge asked him "Whence art thou?" he gave him no answer, a very plain indication that such an earthly court could not rightly intertere with the relation he sustained to the Most High. 3rdly. When Pilate, like a modern judge, rebuked him for standing mute, and averred his "power to crucify or release," the Saviour answered in these memorable words, "Thou couldst have no power at all against me, except it were given thee from above; therefore he that delivered me unto thee hath the greater sin." This was another distinct plea to the jurisdiction: it declared that the offence of the person who delivered him was not only *great* but the *greater* because he arraigned him before a tribunal which had no power delegated from Heaven, to adjudicate in such a matter. But the present parliamentary attempt to judge between the churches; to elect what creeds shall be admitted to, and what excluded from official patronage and endowment; to decide what christians profess a faith entitling them to participate the wealth of the government, and what christians for some implied heresy or unworthiness should merely receive toleration; to invade the "kingdom not of this world" with invidious and sectarian privileges by the conferring of which some churches are to be honored, and by the withholding of which, others are to be cashiered by the State; these parliamentary attempts thus to sow the seeds of jealousy among the churches of Christ and them with envy and infect them with

an artificial anti-christian aristocracy, are in practice, in principle and in consequences, so closely allied to the deprecated interference of the world with the supremacy of the Messiah, that any affectation of a distinction would vanish in a refinement.

Whenever persons volunteered in the cause of christianity upon its first announcement, nothing of the nature of Clergy Reserves was intimated to them; but the church was exhibited poor of the world and rich of heaven. When the scribe said, "I will follow whersoever thou goest;" he he was cheered with no present or future prospect of princely or national support, "the foxes have holes and the birds of the air have nests, but the Son of man hath not where to lay his head;" nor does it appear that he afterwards enlisted himself in the service of a kingdom which was engaged in a war with the whole world; a kingdom, therefore, which could expect from its governments as little aid then, as it can need from them now. The same sentiment is pursued when the young man of great possessions made his enquiries after salvation in an early period of the christian ministration. If the church was to be at any time indebted to the world for nourishment and growth, it appeared at this primitive stage more particularly to require it. And had such been the destined policy of the spiritual hierarch, the presumption is that the young man would have been instructed as a matter of duty to convert his "great possessions" into clergy reserves for the support of the present and the encouragement of the future disciples; for "the harvest was plenteous, and the labourers few." A very different conclusion, however, must be drawn from the injunction "sell all thou hast, and *give to the poor* and follow me," The church among clergy reserves, is represented, "as seed among thorns," "the care of this world and the deceitfulness of riches, choke the word and it becometh unfruitful." Wherever in the form of a parable a prophetic account is given of the course and history of the church, no part is assigned to parliaments or national endowments.

Hence the Saviour represents himself as, "the true vine" and his Father as the "husbandman" and instead of referring, in any degree whatever, the growth and fruitfulness of the branches to national and parliamentary endowments, (without which some apprehend the vine will wither away,) it is emphatically said, in explanation of the sole source of productiveness, "without me ye can do nothing," — "I have chosen you and *ordained* you, that your fruit should *remain*"— and at the same time, instead of conciliating the favor of the powers of the world, or prophesying their future co-operation, he announced their hatred and persecution. It is obvious from the context that the disciples were somewhat dismayed, when "these things were spoken of unto them that they might not be offended." They saw a world of powers linked with paganism. These powers were to be overcome against the utmost exercise of their hatred and persecution, — and when subdued, it is not said or hinted, that they should be received as an ally, or be allowed to sway the sceptre of the kingdom which had accomplished their subjugation.

The disciples are dismayed — How are they comforted? With the prospect of Clergy Reserves? or national endowments? or of parliamentary legislation? Not one word of consolation is derived from the world.—There is no prophetic description of any kindred relation present or future between Church and State, either to bring forth the fruit or make it remain. They were "to teach all nations" and to "feed the sheep," in the midst of martyrdom and death— and their encouragement is "be of good cheer, *I have* overcome the world" and the "father shall give you another comforter that he might abide with you forever; even the spirit of truth, whom the world cannot receive;" the very world, indeed, without whose aid learned gentleman would make me believe, christianity would become extinct.

Here is the last will and testament. It appoints to carry out the analogy, an executor; but not of Kings or Parliaments. It is expressly and exclusively, "the comforter, which is the Holy Ghost, to remain with them forever." "Go and teach all nations" and to I am with you to the end of the world."

This promise is itself enough, and in the first centuries it was all prevailing. It neither needs nor asks the super-addition of those national endowments, which, according to the experience of the past ages, and the testimony of Divines, "have added to the wealth, but destroyed the spirituality of the church.

Attempts were made to defeat divine prophecy by re-building Jerusalem; but so safe was the truth under the supreme care, which is now distrusted, that the repeated attempts were as repeatedly defeated by a miraculous interference. The following is the account given by Dr. Mosheim:

"As Julian affected in general, to appear moderate in religious matters, unwilling to trouble any on account of their faith, or to seem averse to any sect or party, so to the Jews, in particular, he extended so far the marks of his indulgence as to permit them to re-build the temple of Jerusalem. The jews set about this important work; from which, however, they were obliged to desist, before they had even begun to lay the foundations of the sacred edifice. For, while they were removing the rubbish, formidable balls of fire, issuing out of the ground with a dreadful noise, dispersed both the works and the workmen, and repeated earthquakes filled the spectators of this astonishing phenomenon with terror and dismay. This signal event is attested in a manner that renders its evidence irresistible though, as usually happens in cases of that nature, the Christians have embellished it by augmenting rashly the number of the miracles that are sup-

posed to have been wrought upon that occasion. The causes of this phenomenon may furnish matter of dispute; and learned men have, in effect, been divided upon that point. All, however, who consider the matter with attention and impartiality, will perceive the strongest reasons for embracing the opinion of those who attribute this event to the Almighty interposition of the Supreme Being; nor do the arguments offered by some to prove it the effect of natural causes, or those alleged by others to persuade us that it was the result of artifice and imposture, contain anything that may not be refuted with the utmost facility."

According to the language of St. Paul—"Christ is the head of the body, the church." Lawyers will observe that it is not "*a head*," which would imply the possible existence of others; nor is "chief head," which would admit of subordinate ones: but it is emphatically expressed "the head," supreme, admitting the pretensions of no other, the assumption of no deputy, and the competition of no King, national, executive, or legislative assembly. What is meant by the head? It is the part by which we see, and hear, and direct the movements of the general frame. In like manner, as "the Head." He has an eye and an ear spiritually to commune with his church and superintend its whole economy. This pledge he hitherto has, and will continue to redeem. Do you doubt it? Will you (I speak it not irreverently) erect this Parliament into the Chancery of Heaven, and issue a commission of lunacy in the case?—It sounds, indeed, so profane, as much to need an introductory apology. But does it not savor of the same profanity, to talk of building christianity, not on "the rock" with the "chief corner stone," but on acts of parliament, Clergy Reserves, and state patronage? "If it be of men it will come to nought: but if it be of God, ye cannot overthrow it." Admit, then, of no ecclesiastical treason: sanction no usurpation; attempt not to pass the baser currency of the world in His spiritual kingdom. But fearlessly leave the church to her King, with such ministers as shall hear and obey His voice, "take up your cross and follow me;" and believe that the free-will offerings of every grateful convert, being all that is asked, will under his providence, flow into the sacred treasury with enough to wisely supply all temporal wants without the fear of poverty, or the greater fear of those superabundant riches, with which "even a rich man can scarcely enter into Heaven."

What then are Kings and Governments to do for christianity? Let them conduct the affairs of the people in such a manner as will yield the greatest degree of general intelligence and prosperity, faithfully extending equal religious and civil rights to all. Truth and error will then, politically speaking, be put upon their respective resources; and there can be as little fear that the former will not prevail over the latter, as that God will not prevail over Mammon.

The divine language addressed to multitudes of people, is surely applicable to a limited few of that number, engaged in the management of their common affairs. "Let your light so shine before men, that they may see your good works, and glorify your Father which is in Heaven."

Governments will most substantially promote and enrich the christian church, by exemplifying in their private relations and in their public deportment, the graces of the gospel. But the government which puts "its candle under the bushel," and is seen in its principles and its results, by that glimmer, which barely renders "the darkness visible," affords by its political patronage a shameful and unprofitable substitute for those more spiritual endowments.

To what purposes, then, ought these reserves to be applied? To the general education of the people. Philosophy has been well styled "the handmaid of religion:" and while the general diffusion of knowledge will augment the happiness of the community, it will at the same time enrich the corroborative testimonies in favor of divine truth, and diminish that ignorance and error which have heretofore rendered it less accessible to mankind.

If religion has in past times triumphantly prevailed against the powers of this world and of darkness too, how incalculably we may facilitate her conquests by merely levelling, as it were, the theatre of her operations, and giving freer scope to her spiritual welfare. Although many great men have brought all the force of their minds to bear against christianity, and have thrown over it the clouds of infidelity, yet those clouds have served to give greater refraction to the truth shining through them, and therefore enhanced and enlightened what they were intended to darken and enshroud—just as the moon rising in an evening fog seems really the nearer and the greater for the very mist about her. Thus Gibbon is converted into a commentator upon the fulfilment of prophesy. If such has been the course of christianity under multiplied disadvantages, the abatement of those disadvantages will contribute to mature its meridian, and usher in the approaching milennium.

With these views, Sir, it is my intention, should the motion for the adoption of the preamble of the bill before you be lost, to move the following resolution:

"That it is expedient to provide for the sale of the Clergy Reserves, and the application of the proceeds to the purposes of General Education, as one of the most legitimate ways of giving free scope to the progress of religious truth in the community."